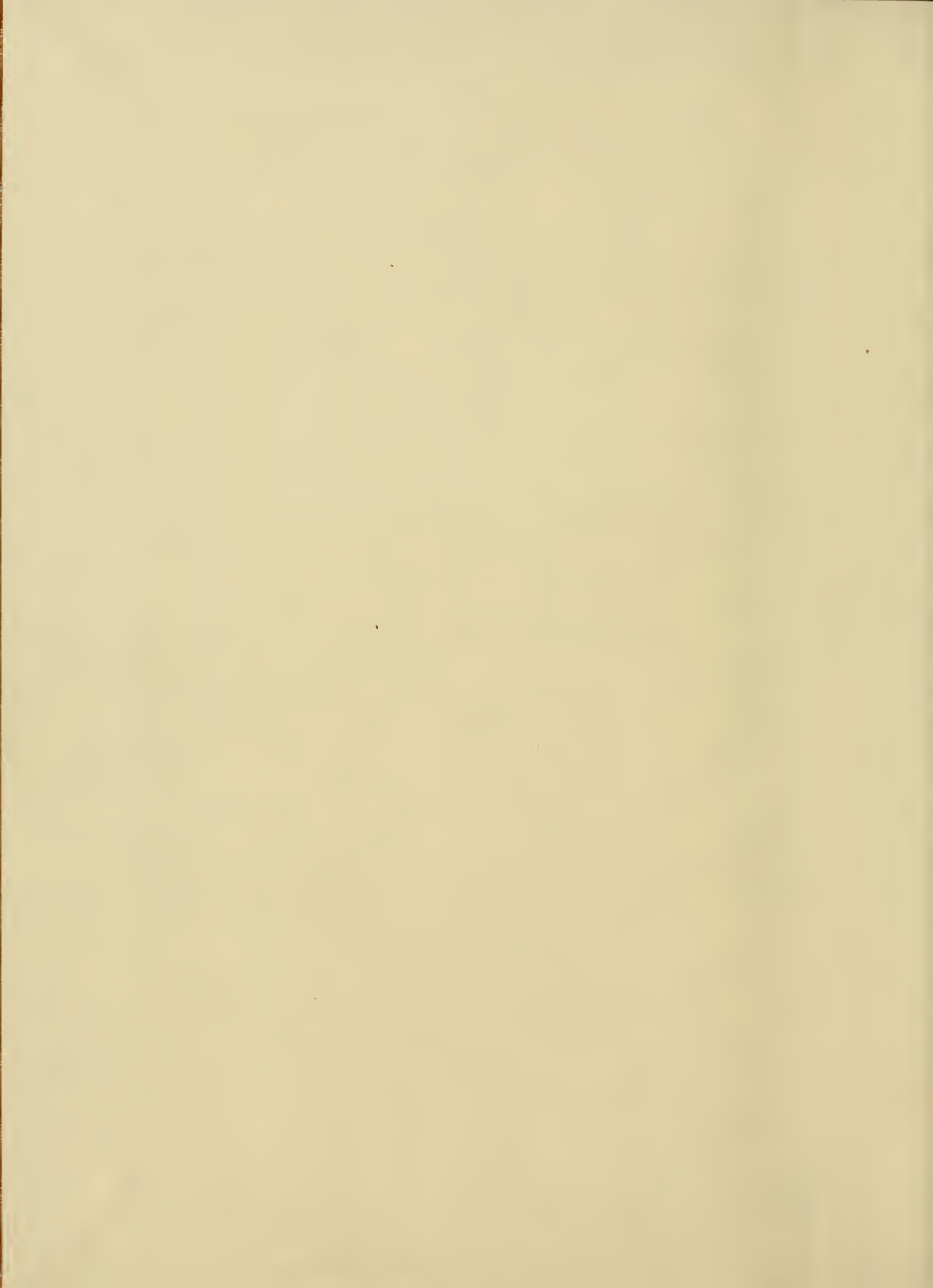


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Acts of the Legislative
Council of the Territory of
Florida

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ACTS

OF THE

LEGISLATIVE COUNCIL

OF THE

Territory of Florida,

PASSED AT THEIR FOURTH SESSION,

1825,

BY AUTHORITY.

TALLAHASSEE.

PRINTED AT THE OFFICE OF THE FLORIDA INTELLIGENCE,

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ACTS

OF THE

LEGISLATIVE COUNCIL.

AN ACT

For the relief of James M. Mc. Intosh.

WHEREAS, it is represented to this present Legislative Council, that Elizabeth Mc. Intosh, who, before her intermarriage with James M. McIntosh, was named Elizabeth Aikin, has violated her conjugal fidelity to her said husband, (who is a resident of Monroe County in this Territory) in a most public and shameful manner; and whereas, the said James M. McIntosh, has petitioned to be divorced from his aforesaid wife; therefore for the relief of the said James M. McIntosh.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the marriage of James M. McIntosh aforesaid, with Elizabeth his wife, formerly Elizabeth Aikin, be, and the same is hereby dissolved, and the said James M. McIntosh is hereby released, from all civil, or moral obligation, to contribute any money or other thing to the support or maintenance, of the said Elizabeth, during their natural lives, or the natural life of either of them. .

Passed November 19th. 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, Clerk,

[*Approved, November 22nd 1825,]*

GEO. WALTON.

Secretary of the Territory, and Acting Governor
of Florida.

A

AN ACT

To change the place of holding the County Courts of Alachua,
and for other purposes therein mentioned.

Court held at
house of Ed-
ward Dixon.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That until the County seat of Alachua County shall have been permanently established, said Court shall hold its sessions at the house of Edward Dixon of said County, and so much of the first section of An Act entitled "An Act to designate the times and places for holding the County Courts in certain Counties in the Territory of Florida" as requires the sessions of the aforesaid Court to be held at the house of Edward Wanton, be, and the same is, hereby repealed.

Commissioners
to select seats of
Justice for Ala-
chua and Nas-
sau counties.

Sec. 2 Be it further enacted, That it shall be the duty of the County Courts of Alachua and Nassau Counties, at the first term of said Courts, or as soon thereafter as may seem to them good and proper, to appoint within their respective Counties, three discreet and impartial persons, two of whom shall be chosen from opposite extremes, and the third from the centre of said Counties as near as may be, whose duty it shall be, under the commission of said Courts to examine and select the most convenient, and most eligible situation for the permanent seat of Justice for the said Counties respectively.

Passed November 21st. 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved, December 3rd 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

For the relief of Charlotte Courter.

Whereas it is represented to this present Legislative Council, that Charlotte Courter of Nassau County

in this Territory, is the lawful wife of one Isaac K. Courter, and that the said Isaac is an habitual drunkard, idle and dissolute, and contributes nothing to the support of his aforesaid wife, engaging and employing himself in attending upon and frequenting the company of profligate and ill-famed women; and whereas the said Charlotte Courter hath petitioned to be divorced from her aforesaid husband, as well as to be restored to the name which she bore before her intermarriage with the said Isaac, therefore,

Be it enacted by the Governor and Legislative Council of the Territory of Florida. That the marriage of the said Charlotte Courter, with Isaac K. Courter, be and the same is hereby dissolved, and the aforesaid Charlotte is hereby released from all allegiance, fidelity, or obligation to him the said Isaac.

Sec. 2. And be it further enacted, That the aforesaid Charlotte Courter, shall from and after the passage of this act, be called and known by the name of Charlotte Smith, and by the name Charlotte Smith, during her natural life, or so much thereof as she shall remain unmarried, may sue, or be sued, plead, or be impleaded, defend, or be defended, purchase, or sell, inherit, or devise, and may do all other things which natural persons may, can, or of right ought to do, free from the molestation, claim or hindrance, of the aforesaid Isaac K. Courter, and of all and every person or persons whatsoever.

Passed November 24th. 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, Clerk,

[*Approved December 3rd. 1825.*]

WM. P. DUVAL.

Governor of the Territory of Florida.

AN ACT

To amend "AN ACT providing for the election of a delegate
to congress"

Be it enacted by the Governor and Legislative Council of the Territory of Florida. That the Treasurer of the Territory is hereby authorised and required, to pay and discharge, out of any funds of the Territory not otherwise appopriated, all demands incurred under and by virtue of a law passed July the 3rd. 1823, entitled "An Act providing for the election of a delegate to Congress" agreeably to, and to the extent of, the provisions therein contained.

Secretary au-
thorized to pay
demands.

Sec. 2. Be it further enacted, That it shall be the duty of the Judges of all future elections for delegate to Congress, within two months thereafter, to cause to be made out, a regular account against the Territory, naming the County poll, or place of election, signed by themselves and clerk, and cause the same to be transmitted to the Treasurer, which when paid shall be deemed and considered, a voucher for the discharge of the same.

Judges of elec-
tion to make
accounts within
two months
transmit them
to Treasurer —
Vouchers for
discharges.

Sec. 3rd. Be it further enacted, That whenever hereafter it shall be necessary for any or all of the Sheriffs of the different Counties to travel more than ten miles to a Post-Office or other place to transmit the returns of the election for delegate to congress in his or their Counties to the Governor of the Territory, he or they shall be allowed as a compensation therefor, four cents per mile to be applied for and discharged in the same manner as is prescribed in the above section for the Judges and clerks of said election.

Compensation
of Sheriff.

Sec. 4. And be it further enacted, That so much of the third section of the above recited act as relates to the keeping the poll open three successive days, be and

Polls open one
day. 3rd section
of former act
repealed.

the same is hereby repealed, and that hereafter the poll shall continue open but one day.

Passed November 29th 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, Clerk,

[Approved December 3rd 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To amend "AN ACT to establish a ferry across the Bay of Pensacola."

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the ferry established by the act to which this is an amendment shall be deemed and considered a ferry from the City of Pensacola to the commencement of the military road from Pensacola to St. Augustine on the south side of the Bay of Pensacola ; and that the right of Ferriage at said ferry shall extend for three miles on each side of the commencement of said road.

Passed November 30th 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved, December 3d 1825.]

WM. P. DUVAL.

Governor of the Territory of Florida.

AN ACT

In addition to an act authorising the appointment of Justices of the Peace and defining their powers.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That when any person ar-

rested on a warrant as provided for in the seventh section of the act, authorising the appointment of Justices of the Peace, and defining their powers; shall be brought before the Justice of the Peace, such person shall be held to bail.

Sec. 2. *Be it further enacted*, That whenever a judgment shall have been rendered by a Justice of the Peace, and no execution shall have issued thereon, for the space of twelve months, from the date of the judgment; or if any execution may have issued, and such execution shall not have been returned, or shall have been returned not satisfied, it shall and may be lawful for such Justice of the Peace, at the request of the plaintiff, his agent, or attorney, to issue a writ of "*scire facias*" against such defendant, which said writ shall be issued, returned, and tried in the same manner, and under the same provisions, as is provided in the seventh section of the act, authorising the appointment of Justices of the Peace, and defining their powers, for cases in which a summons may issue.

Sec. 3. *Be it further enacted*, That in case of the resignation, removal from the county, or removal from office, of any Justice of the Peace, it shall be the duty of such Justice of the Peace, and in case of the death of any Justice of the Peace, it shall be the duty of his executor, to deposit in the office of the clerk of the county where such Justice may have resided, the book of record of his proceedings, and all papers relating to the cases which may have been brought before such Justice; and it shall be the duty of the clerk of the court, in whose office such book of record shall be deposited, to give certified copies of any judgment, record, or paper so deposited; which said certified copies shall have the same force and effect in law, as if they had been made by the Justice; and it shall be the duty of said clerk to issue executions on judgments previously rendered by the justice, in the same manner as could have been done by the justice, which execution shall be issued, executed.

and returned to the clerk in the same manner as they would have been done, had they been issued by a Justice.

Passed November 30th 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 5th 1825.]

WM. P. DUVAL.

Governor of the Territory of Florida.

AN ACT

To alter and amend "AN ACT" concerning forcible entry and detainer.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That whenever a Judgment shall have been rendered by a Justice of the Peace, in virtue of the provision of the sixteenth section of the above recited act; and a writ of *habere facias possessionem*, shall be awarded it shall be the duty of the clerk, immediately to issue said writ, directed to the Sheriff of the County, who shall forthwith execute it, any thing in the aforesaid act to the contrary notwithstanding.

Sec. 2. *Be it further enacted,* That either party, may have a right to appeal to the County Court, or other Court having jurisdiction thereof: but said appeal shall not be construed to act as a stay of execution of the writ awarded by the Justice.

Sec. 3. *Be it further enacted,* That so much of the eleventh section of the aforesaid act as requires the jury to be composed of freeholders be and the same is hereby repealed, and the said Jury may be composed of persons who are housekeepers, to whom neither party hath any legal exception.

Sec. 4. *And be it further enacted,* That when in case of any appeal, judgment shall be given for the defendant below, a writ of restitution shall be awarded

by the court above, which shall be forthwith issued and executed, unless it shall appear by evidence to the court, (or court and jury as the case may be,) that the defendant below at that time, had no right of possession, but that the right of possession was then in the party, who was the plaintiff below.

Passed December 1st 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, *Clerk.*

[*Approved December 5th 1825.*]

WM. P. DUVAL.

Governor of the Territory of Florida.

AN ACT

In addition to "AN ACT to define crimes and misdemeanors and to prescribe punishments for the same.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act it shall be unlawful for any person at or before any public land sales, that may, by order of the General Government take place in this Territory, to use any means by threats, persuasion or propositions, to compel, or induce any person, wishing to purchase for settlement or that may have settled and previously made improvements on public lands, to give him directly, or indirectly, any sum of money, or to promise to give the same or any species of property in lieu thereof, as a bribe, fee, premium, or consideration, for such person not to bid for said land, to the injury of the Government, and the Oppression of individuals.

Sec. 2. *And be it further enacted,* That in all cases where complaints is made on the oath of any individual before a Justice of the Peace, of any such unlawful proposition or proceeding, by any person, that it shall be the duty of said Justice by warrant to cause the accused immediately to appear before him, or some

Unlawful to offer
bribe to bidders
at land sales.

other Justice of the Peace to answer to the complaint,

Sec. 3. *Be it further enacted*, That every person violating this law, shall on conviction by the oath of any individual, be committed to prison for not less than three, nor more than six months, and shall pay a fine of ten fold the amount thus illegally asked and demanded ; to be paid over to the Treasurer for the benefit of the Territory.

On conviction
to be imprisoned
and fined.

Sec. 4. *Be it further enacted*, That it is hereby made the duty of the Justice, in all such cases, to pass judgment, and forthwith issue execution for the amount adjudged, if within his jurisdiction, if above that amount, shall proceed to bind over the person accused requiring good and sufficient bail resident in the Territory for his appearance, at the next term of any Court having jurisdiction thereof.

Justice to pass
judgment and
issue execution.
Bind offender
over.

Sec. 5. *And be it further enacted*, That all promissary notes bonds mortgages deeds of trust or agreements of any and every description entered into under the above described circumstances, be, and, the same are hereby declared null and void, any law to the contrary notwithstanding.

Bonds etc. in
such case void.

Passed November 29th 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, Clerk,

[*Approved December 3rd 1825.*]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To incorporate the City of Pensacola and improve the public roads in the neighbourhood thereof.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all the free white inhabitants of that part of the County of Escambia comprehended within the following boundaries, that is to say: bounded on the South and East by the Harbour of Pen-

Boundaries—
name and style.

sacola; on the West by Bayou Chico, on the North by a line drawn North and East from Galvez's spring to where the said line will intersect the Bayou Texar, thence with the said Bayou to Pensacola Bay, shall be, and they are, hereby constituted a body politic and corporate by the name and style of the City of Pensacola, and by their corporate name may sue and be sued, implead and be impleaded, grant receive and do all other acts as natural persons, and may purchase and hold real, personal and mixt property, or dispose of the same for the benefit of the said City, and may have and use a City seal, which may be broken or altered at pleasure.

Government of.

Sec. 2. *Be it further enacted*, That the government of the City, shall be vested in a person to be called a Mayor and in a board of Aldermen, to be elected in the manner, by the persons, and at the time hereinafter directed.

Who entitled to
vote --- Election
when held---by
whom.

Sec. 3. *Be it further enacted*, that all free white male inhabitants of the age of twenty one years and upwards, who shall have resided six whole months in the City next preceding the day of election and who shall be liable to be taxed by the corporation shall be qualified to vote at the election of Mayor and Aldermen of said city; that the election shall be held on the first monday of April in every year by three commissioners to be appointed by the board of aldermen, at least ten days before the day of each election.

Who eligible as
Mayor and Aldermen.

Sec. 4. *Be it further enacted*, That all free white male Citizens of the United States of twentyfive years or upwards who shall be housekeepers and who shall have resided one year in the City next preceding the day of election shall be eligible to the office of Mayor or Alderman: *Provided*, That nothing in this act contained shall be construed to deprive of their rights and privileges such persons as were inhabitants of this Territory at the time of the change of government.

Number of Aldermen---by ballot---place of election.

Sec. 5. *Be it further enacted*, That the whole number of Aldermen elected shall be nine, and that the said election of Mayor and Aldermen shall be made by

ballot and shall be held at such place within the City as the said commissioners shall appoint.

Sec. 6. *Be it further enacted*, That the board of Aldermen shall have power to fill vacancies in their own body, by causing elections to be made in the manner hereinafter directed out of the Citizens qualified to fill the said office.

Vacancies how filled.

Sec. 7. *Be it further enacted*, That the Mayor and Aldermen shall in all cases continue to exercise their respective functions, until their successors be elected and qualified to serve.

Continuance in office.

Sec. 8. *Be it further enacted*, That the board of Aldermen shall within five days after their election, convene at such place as the Mayor may appoint and proceed to the election by ballot of a person to be called the President of the board of Aldermen; whereupon the said President shall administer to the Mayor, and afterwards to the other Aldermen respectively, the following oath or affirmation: "I, A. B. do solemnly swear that I will to the utmost of my power support, advance and defend, the good order, peace and welfare. of the City of Pensacola and its inhabitants, and will faithfully demean myself in the office of Mayor (or Alderman as the case may be) of the said city according to the by-laws and regulations thereof, according to the best of my skill and judgment; and I do also swear (or affirm as the case may be) that I will support the constitution of the United States." And a like oath shall then be administered by the Mayor to the President of the board of Aldermen.

President of board....Oath..

Sec. 9. *Be it further enacted*, That the Mayor, or person exercising the powers of Mayor of said City, shall appoint all City officers; he shall, within the limits of said City, have and exercise all the powers, and shall be entitled to all the fees and emoluments of a justice of the peace for this Territory, and shall receive such other compensation for his services in said office as may be established by the said board of aldermen.

City officers, appointment of... Mayor exercise powers and jurisdiction of justice of Peace... fees.

Sec. 10. *And be it further enacted*, That the said board of Aldermen shall constitute a board of health

Board of health.

for said City, and as such board of health shall have power to appoint the necessary officers, and to enforce and carry into effect all laws of the Legislative Council and of the said board of Aldermen regulating the quarantine of Vessels and for the preservation of the health of said City.

Commissioners
to select quar-
antine ground:---
Proviso.

Sec. 11. *And be it further enacted*, That the said board of Aldermen shall have power to appoint commissioners to select a quarantine ground for the Harbour and Bay of Pensacola; and to pass all necessary laws to prevent the introduction of contagious diseases into said City, Provided that no law shall be passed whereby Vessels coming to the Port of Pensacola after the twenty fifth day of October in each and every year shall be subjected to quarantine.

Quorum---Com-
pel attendance
---appoint offi-
cers---removal
of---journal of
proceedings---
deliberations
public---veto of
Mayor---two
thirds appro-
ving.

Sec. 12. *And be it further enacted*, That two thirds of the members of the board of Aldermen shall be a quorum to do business, but a smaller number may adjourn from day to day; they may compel the attendance of absent members in such manner and under such penalties as they may by ordinance provide; they shall settle their rules of proceedings appoint their own officers, regulate their respective fees and remove them at pleasure; they shall judge of the election returns and qualifications of their own members, and may, with the concurrence of three fourths of the whole expel any member for disorderly behaviour or malconduct in office, but not a second time for the same offence; they shall keep a journal of their proceedings, and enter the yeas and nays on any question resolve or ordinance at the request of any two members, and their deliberations shall be public, and all ordinances or acts passed by the board of Aldermen shall be submitted to the Mayor for his approbation and when approved by him shall be obligatory as such; but if the Mayor shall not approve of such ordinance or act he shall return the same within five days with his reasons in writing therefor; and if two thirds of the board of Aldermen on reconsideration thereof approve of the same it shall be in force in like manner as if he had approved it.

Sec. 13. *Be it further enacted*, That it shall be the duty of the Mayor to see, that the ordinances of the Corporation be duly executed and shall report the negligence or misconduct of any officer to the board of Aldermen, who, on satisfactory proof thereof may remove from office the said delinquent, or take such other measures thereupon as shall be just and lawful: he shall have power to convene the board of Aldermen when in his opinion the public good may require it, and he shall lay before the board from time to time in writing such alterations in the laws of the corporation, as he shall deem necessary and proper.

Duty of Mayor--
convene the
board.

Sec. 14. *Be it further enacted*, That the Corporation aforesaid shall have full power and authority to pass all by-laws and ordinances; to prevent nuisances and remove them; and to pass all necessary laws imposing fines and penalties for violations of their quarantine regulations; and to co-operate with the board of health in preventing the introduction of contagious disorders within the City; to establish night watches or Patrols and erect lamps; to regulate the stationing, anchorage and mooring of vessels; to provide for licensing and regulating auctions, retailers of liquors, billiard table keepers, hackney carriages, waggons, carts and drays; to restrain or prohibit gambling, and to provide for licensing, regulating, or restraining, theatrical or other public amusements within the city; to regulate and establish markets; to licence and regulate the pilotage of the harbor; to erect and repair bridges, work houses, houses of correction and other public buildings; to keep in repair all necessary streets, drains and sewers, and to pass regulations necessary for the preservation of the same; to provide for the safe keeping of the standard of weights and measures fixed by Congress; to regulate burying grounds; to provide for the licensing and regulating the sweeping of chimneys and fixing the rates thereof; to establish and regulate fire wards and fire companies; to regulate and establish the size of bricks that are to be made and used in this City; to sink wells and to

Powers of Corporation---pro-
viso---rate of tax
on city property---proviso.

erect and repair pumps in the streets ; to control and regulate the use of the springs in the city ; to establish and regulate the inspection of tobacco, cotton and salt-ed provisions, and other articles, the guaging of casks and liquors, the storage of gunpowder, and all Naval and Military stores not the property of the U. States ; to regulate the weight and quality of bread ; to tax and license hawkers and pedlars ; to restrain or prohibit tippling houses and lotteries ; to preserve the navigation of the Harbor and Bay adjoining the City ; to erect repair and regulate public wharves, and to deepen docks and basins ; to provide for the establishment and superintendence of public schools ; to regulate and license ordinary keepers, retailers and ferries ; to provide for the appointment of all such officers as may be necessary to execute the laws of the corporation, and to affix their compensation ; *Provided*, that no law or ordinance shall be passed granting a salary, per diem allowance, or fees to the members of the board of Aldermen ; to open, extend, alter, regulate and pave the streets within the limits of the said City, and to remove all old and decayed buildings or ruins therein : *Provided*, they make to the person or persons who may be injured by such extension or alteration of the streets, or by the removal of such buildings or ruins just and adequate compensation, to be ascertained by the verdict of an impartial jury to be summoned for that purpose, out of the funds of the corporation, or by assessment upon such persons, and in such manner as the said board of Aldermen may direct, which said jury shall be summoned by the sheriff of the county of Escambia, or his deputy by virtue of a precept from the Mayor of said city, from among the disinterested persons residing within the said city, who shall be qualified to serve as jurors in the courts of this Territory, and who, previous to entering upon their duty, shall be sworn, faithfully to perform the duties assigned them ; to borrow money for the use of the city : *Provided*, the sum borrowed, shall not in any year exceed three thousand dollars, nor a greater rate

of annual interest to be paid therefor than six per cent ; to provide for the support of the poor, infirm, diseased and insane of the city ; to lay and impose taxes and provide for the collection thereof: *Provided*, that no tax shall be imposed on real property in the city, at any higher rate than three quarters of one per centum on the assessment valuation of such property ; to impose and appropriate, fines, penalties, and forfeitures, for breach of their ordinances ; to restrain and punish offences committed by negroes and people of colour, and to pass all ordinances necessary to give effect and operation, to all the powers vested in the corporation: *Provided*, that the by-laws or ordinances, of the corporation shall be in no wise obligatory upon the persons of non residents of said city, unless in cases of intentional violations of the by-laws or ordinances, previously promulgated: *And provided further*, that no law or ordinance, shall be passed by said corporation repugnant to the constitution or laws of the United States, or the laws of this Territory.

Sec. 15. *Be it further enacted*, That all fines, forfeitures, penalties and taxes, imposed by the corporation, shall be recoverable accordingly to the amount thereof, before a Justice of the Peace, or any court of record for the use of the city ; and if the person or persons, by whom the same shall be due and unpaid, shall be non-residents of the city, or shall have absconded therefrom, the corporation shall have the same remedy by attachment for the recovery thereof, as is by law provided in cases of absent or absconding debtors.

Fines and penalties how recoverable.---Non residents.

Sec. 16. *Be it further enacted*, That the corporation shall have full power and authority, to keep in repair all public roads leading to the city for the extent of three miles therefrom, and within the same distance, to establish and regulate ferries ; and may levy a tax for these purposes in such manner and under such regulations, as they may conceive least burthensome to the citizens, and best calculated for the general good and welfare of the city.

Public roads---ferries---tax.

Oath of Commissioners....
polls--public
notice to be given
of who are
elected.

Sec. 17. *Be it further enacted*, That the said commissioners previously to receiving any votes shall, generally take an oath or affirmation, before some person qualified to administer the same, that they will, without fear or favor, faithfully and impartially conduct the said election; the polls shall be kept open from eight o'clock in the morning till seven in the evening and no longer for the reception of ballots. On the closing of the polls, the commissioners shall close and seal their ballot boxes, and meet on the day following in the presence of the board of Aldermen, when the seals shall be broken and the votes counted, and the Mayor shall give notice to the persons having the greatest number of votes of their being duly elected, and shall cause public notice thereof to be inserted in some newspaper published in the city, or, if there be no newspaper, then, in the manner which may be determined on by the Mayor.

In case of no
election charter
not forfeited.--
Duty of Mayor
thereupon.

Sec. 18. *Be it further enacted*, That in case no election shall be holden from unavoidable cause at the time pointed out by this act, the charter of the corporation shall not, on that account be forfeited, but it shall be the duty of the Mayor to name another day for holding the election as near as convenient to the one pointed out by this act, and which said election shall be as valid and legal as if the same had been held at the proper time.

In the absence
etc. of Mayor,
President of
board to act.

Sec. 19. *Be it further enacted*, That in case of the absence, death, or resignation of the said Mayor, the President of the board of Aldermen shall have and exercise all the powers, and perform all the duties of Mayor of said city.

Former act re-
pealed--Proviso

Sec. 20. *Be it further enacted*, That the act entitled "an act to incorporate the City of Pensacola and improve the public roads in the neighborhood thereof," passed December 22d. 1824, be, and the same is, hereby repealed: *Provided*, that such repeal shall not be construed to vacate the offices of the present Mayor and Aldermen of said city, but the said Mayor and Aldermen, shall continue to have and exercise

their said offices, until the day prescribed by this act for a new election.

Sec. 21. *And be it further enacted*, That this act shall continue in force for the term of eight years and no longer.

Duration of this act.

Passed December 3d. 1825.

A. BELLAMY,
President of the Legislative Council.
SAML. FRY, *Clerk*.

[*Approved December 5th 1825.*]

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

To amend an "an act regulating Judicial proceedings approved December 30th 1824.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall and may be lawful to commence any and every action at law, which can be brought or commenced in any court of record within this Territory, by filing in the clerks office of the court, and County or District, (as the case may be) in which said action may be brought or commenced, a declaration in writing setting forth the cause of action intended to be relied on at the trial, together with the writing or a true copy thereof upon which said action is founded; if it be an action upon a written contract, or agreement of any character, or if by parol, then a copy of the account, claim, or demand, upon which suit is commenced, and by making a written memorandum in the book of memorandums of said clerk, to issue a writ or summons as the case may require.

Lawful to commence suit by filing declaration kinds of action. Clerk issue writ or summons.

Sec. 2. *Be it further enacted*, That in all cases in which the declaration of the plaintiff or plaintiffs shall be filed with the clerk before the issuing of the writ or summons, it shall be the duty of the clerk to note upon the back of said declaration the time of filing the

Clerk note time of filing.

same and upon the writ or summons that "the declaration in this case is filed" and attest the same under his name.

Plaintiff entitled
to trial first
term.

Sec. 3. *Be it further enacted*, That when the foregoing sections of this act are pursued, it shall be lawful for the plaintiff or plaintiffs, in any suit so commenced, where process shall have been executed thirty days or more before the first day of the term to which such process is made returnable to have and demand a trial of right unless good cause of continuance is shewn to the court by either party, and where such process shall have been executed a less number of days than thirty before the first day of the appearance term the defendant shall of right if he see cause, claim a continuance until the term of the Court next after the appearance term.

No other than
special bail--
bail may be en-
dorsed on back
of writ.

Sec. 4. *Be it further enacted*, That no other than special bail shall be required in any action whatever, and when any person or persons shall endorse upon any writ requiring bail "I or we agree to be special bail for the within named defendant, or, (as the case may be) defendants" and each person so agreeing to become bail shall subscribe his or her name thereto at the time of such agreement, such agreement shall be taken and considered as a sufficient recognizance of special bail, and the same remedy shall be had against any person or persons so agreeing to be special bail, as if a special bail piece had been legally and formerly [formally] executed.

Duty of officer
to take bail in
certain cases.

Sec. 5. *Be it further enacted*, That upon all writs issued from any clerks office of [in] this Territory requiring bail, and where no release of bail is endorsed on the back of said writ, it shall be the duty of the officer who by himself or his deputy shall execute said writ to take good and sufficient bail.

Sec. 6. *Be it further enacted*, That in all actions founded on any judgment, bond, bill of exchange, promissory note, or writing obligatory for the payment of money, and in all other actions founded on contract, when the sum due shall be ascertained by the

oath of the plaintiff or any other person, it shall be lawful for the clerk in whose office suit may be brought to issue a writ of *capias ad respondendum* against the defendant or defendants if required by the written memorandum of the plaintiff or plaintiffs, or his, her, or their, agent or Attorney and bail shall be requireable on such writ of course, and where bail is not required by the written memorandum of the plaintiff, or his, her, or their, agent or Attorney, then the clerk shall endorse upon the back of said writ a release of bail, or no bail is required.

Clerk issue *capias ad respondendum* in certain cases when no bail is required clerk endorse release.

Sec. 7. *Be it further enacted*, That in all cases where the writ or other process shall issue before filing the declaration as is herein before provided for, the plaintiff or plaintiffs shall have no trial at the appearance term of the case but by consent of parties, but shall have ~~until~~ the end of the first day of said term in which to file in court his, her, or their, declaration, and if no declaration be filed in the time aforesaid, it shall be lawful for the court in which suit is brought upon motion made without notice, to abate the said writ for want of prosecution: *Provided however*, that in any case where declaration shall be filed agreeably to the provisions of this section the plaintiff or plaintiffs shall of right claim a trial at the term of the court next after the appearance term unless good cause be shewn for a continuance.

Plaintiff when process has been served not entitled to trial first term--proviso.

Sec. 8. *Be it further enacted*, That the clerks of any or either of the courts of record within this Territory, shall not be required or authorised to keep any rule docket, or issue docket or any other docket of causes common [commencing] and depending in their said courts respectively, save only a trial docket, and it shall be the duty of the said clerks and each of them respectively to make or cause to be made a trial docket as aforesaid within thirty days next after the term of the court at which any cause or causes shall have been continued, on which shall be noted all and every such cause or causes.

Clerks of courts of record not to keep rule or issue docket, trial docket.

Sec. 9. *Be it further enacted*, That all actions of debt

Causes to be set
down for trial
2d day of term.

or petitions founded upon any bond, note, bill of exchange, or writing obligatory for the direct payment of money shall be set down by the clerks respectively upon their said dockets for the second day of the term of the court to which such causes are set for trial, whether they be causes which have been continued or are appearances to said term.

Causes docketed in the order they are continued or commenced, certain number set for each day---exception.

Sec. 10. *Be it further enacted*, That in all other continued causes the clerk as aforesaid shall be required to docket each and every of them in the order in which they and each of them are continued commencing with the cause first continued, first and so to the end; and all appearance causes shall be docketed thereafter at the time and in the order in which they and each of them are commenced; and a number set by the clerk for each day of term excepting, nevertheless, the day and causes in the foregoing section of this act contained which shall be docketed as in said section is expressed

No judgment by
default or nil dic-
tit--unless.

Sec. 11. *Be it further enacted*, That no judgment by default or judgment by nil dicat shall be claimed or be awarded by the court in any cause unless the defendant shall have failed on the first day of the term to which such cause is docketed to file by himself or his attorney his or her plea or pleas to plaintiffs action.

Plaintiff in cer-
tain cases may
after plea filed
claim continu-
ance.

Sec. 12. *Be it further enacted*, That after filing the plea or pleas as aforesaid, the plaintiff or plaintiffs may if he, she, or they require it, upon the ground of surprise in pleading, claim a general continuance until the next term of the court.

Writs of enquiry,
default-nil
proviso

Sec. 13. *Be it further enacted*, That all writs of enquiry of damages upon interlocutory judgments by default, or nil dicat shall be executed upon the days upon which such causes are respectively set for trial; upon which such interlocutory judgment or judgments shall be awarded, or at any day in the term thereafter in the discretion of the court: *Provided however*, that upon all such interlocutory judgments as aforesaid where the sum due to the plaintiff or plaintiffs can be ascertained by the court without parol testimony, and the

plaintiff or plaintiffs by himself, herself, or themselves, or by attorney shall desire a final judgment without the intervention of a jury, the court shall proceed to award the same, which shall be as void to all intents and purposes, as if a jury had been empanelled and had rendered a verdict thereon.

Sec. 14. *Be it further enacted*, That special demurrers shall be considered and adjudged only to extend to defects of form in any matter or manner of pleading, and where any such demurrer shall be sustained the party whose pleadings are so adjudged informal, shall have a right both to amend and proceed instanter without costs as though the said pleadings had been formal originally, and as though no such demurrer had been filed argued or adjudged.

Special demurrers only to extend to defect of form--party entitled to amend.

Sec. 15. *Be it further enacted*, That general demurrers shall only be considered to extend or effect in any pleadings, the substance and gist of said pleading, and shall not be considered either at law or in equity as an admission of the facts contained in said pleading so demurred to, so as to bar or stop demurrant from any substantial claim or defence which by any proper plea can be had or made.

General demurrers.

Sec. 16. *Be it further enacted*, That if a general demurrer to the plaintiff's declaration or any plea by way of replication &c. be sustained, the plaintiff shall have a right to amend his said declaration or other pleading so substantively defective by payment of all costs up to the time of amendment which shall be awarded to defendant by the judgment of the court upon an application so to amend, and the defendant shall also have a right to claim a continuance of course.

If general demurrers are sustained plaintiff to amend declaration etc.

Sec. 17. *Be it further enacted*, That if a general demurrer to defendant's plea or pleas, be sustained, the defendant shall of right file other plea or pleas if good in law, by paying all costs up to the time of demurring, and by going to trial instanter if required by plaintiff unless good cause for continuance can be shewn.

If general demurrer to defendant's plea be sustained defendant can amend by paying cost.

Sec. 18. *Be it further enacted*, That all persons su-

Persons sued jointly--defendant can plead many issues--proviso.

ed jointly may of right serve [swerve] in pleading and every defendant to any action may plead as many issues of law and of fact as he or she shall deem necessary to a full and proper defence, and it shall be no exception to any plea thus filed, that it is contradictory to any other plea filed by the same party in the same cause ; *Provided however*, that no plea shall be double.

More than one issue, judgment in certain cases general.

Sec. 19. *Be it further enacted*, That if defendant by pleading tenders more than one issue of fact proper to be joined, then the jury shall be sworn to try the issues joined, and upon all issues so joined which are in favor of the plaintiff, his costs upon said issues shall be awarded him ; if however upon any issue joined which forms a bar to plaintiff's demand, the finding of the jury be for defendant or defendants, then the judgment of the court shall be *generally* for defendant or defendants as the case may be.

Form of jury oath.

Sec. 20. *Be it further enacted*, That the form of swearing a jury on the trial of issues shall be in substance as follows, to wit : "you and each of you do solemnly swear (or affirm as the case may be) that you will, well and truly try the issue (or issues) joined betwixt A, B, plaintiff and C, D, defendant according to evidence and a true verdict give unless dismissed by the court or withdrawn by the parties.

When there is no executor or administrator, any person having demands against estate may sue heir &c.

Sec. 21. *Be it further enacted*, That where any person shall die seized and possessed of any estate, real, personal, or mixed, and no person shall be appointed executor or administrator thereto it shall be lawful for any person having any debt, claim, or demand against such decedant, to maintain an action or actions against the heir or heirs of such decedant, and against any and every other person having and being possessed of any estate real, personal, or mixed, of such decedant, to the extent to which such heir or heirs or other person or persons shall have become possessed of any such estate, real, personal, or mixed, and no further.

Sec. 22. *Be it further enacted*, That writs of *scire fac*

cias against bail shall be made returnable sixty days after they are respectively issued, and if a *scire facias* be returned by the sheriff or other officer to whom it may be directed, "the defendant is not found in my bailiwick," another or alias *scire facias* may be immediately directed by the plaintiff and issued by the clerk, and the bail shall be fixed at the term of the court next after a writ of *scire facias*, returned executed, or a second return of, "the defendant is not found in my bailiwick."

Writs of *scire facias* against bail--alias *scire facias*.

Sec. 23. *Be it further enacted*, That upon all judgments upon default or nil decit rendered final without the intervention of a jury, the judgment shall be rendered to bear an interest of six per centum per annum from the day at which the debt, or demand became due, and payable, upon which such judgment is rendered until paid, unless upon any agreement made according to law, a greater or less interest is reserved, and then the computation shall be after such greater, or less reservation.

Interest on judgments from time debt became due--unless--

Sec. 24. *Be it further enacted*, That upon all other judgments upon the verdict of a jury sounding in damages, or in debt, and damages, the judgment shall bear an interest of six per cent from the time of its rendition until paid.

Interest six per cent from time of rendition:

Sec. 25. *Be it further enacted*, That it shall be the duty of the respective clerks of record in this Territory to tax costs upon all judgments in their respective courts, and no notice or other motion of any kind shall be required to enable said clerks to perform the duty hereby required.

Clerk to tax cost on judgments--no notice.

Sec. 26. *Be it further enacted*, That upon all judgments rendered by any court of record in this Territory, it shall be lawful and is hereby made the duty of the clerk to tax five per cent upon the amount of the judgment or judgments so rendered in favor of the party in whose behalf judgment shall have been rendered, as his costs for the expense of employing an attorney if he, she, or they shall have had an attorney of record

Clerk tax five per cent for attorneys fees.

in the cause upon which such taxation is made, but not otherwise.

Sec. 27. *Be it further enacted*, That all and every party or parties to each and every suit commenced and depending in any court of record in this Territory, shall at his peril take notice of all and every step or steps which are made and filed in the clerks office in which such suit is depending, and all rules to plead and rules to require notice of any plea filed or other proceeding taken in the clerks office, shall be and the same are hereby abolished, subject nevertheless to the exceptions in this act herein before contained.

Sec. 28. *Be it further enacted*, That when any party plaintiff shall be desirous to bring or commence any suit at common law against two or more defendants residing in different counties in the same judicial district, it shall and may be lawful for the said party plaintiff to commence suit in any county in which any one of the defendants may and shall actually reside, and by his memorandum to the clerk to require as many writs for bail, or without, or summons if necessary as there are defendants; addressed to the sheriffs of the different counties in which said defendant or any of them shall reside which shall accordingly be issued by the clerk and it shall be his duty to endorse upon the back of each of said writs or summons, which of the defendants it shall be executed upon; which said writ or summons so issued as aforesaid it shall be the duty of the sheriff or other officer to whom it is directed to obey.

Sec. 29. *Be it further enacted*, That it shall be lawful for the various clerks of record in this Territory upon written memorandum made upon their respective memorandum books, to issue subpoenas for witnesses to any county in the Territory where said witnesses shall reside, addressed to the sheriff of the county in which such subpoena is to be executed; which said subpoenas shall be issued at any time when required after thirty days from the end of a term, returnable to next term.

Sec. 30. *Be it further enacted*, That if any party ask

All parties to take notice of proceedings etc. in clerks office either final--rules to plead and notice abolished--exception.

Two defendants plaintiff may sue in any court against either where they reside--clerk issue one or more writs for bail etc.--clerk endorse which defendant process to be served upon.

Clerk issue subpoenas to clerk of court where witness resides.

ing a subpoena shall have the same served on any witness whose name is included in said subpoena by any other officer or any other person than a sheriff, such service shall be good, if such other officer shall make return of service, or if such other person not any [an] officer shall make oath of having served such subpoena upon such witness or witnesses before any Judicial officer in this Territory, who shall certify the making of such oath.

Any person may serve subpoena, service sworn to before any Judicial officer good.

Sec. 31. *And be it further enacted*, That the second, eighth, thirty first, forty first, and fifty ninth, marked in the statute book sixtieth sections of the act to which this is an amendment as well also as other parts of said act or of other acts as are inconsistent with the provisions of this act, be and the same are hereby repealed.

Repeal.

Passed December 7th 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, Clerk,

[Approved December 8th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

In addition and amendment of "AN ACT to determine the fees of certain Officers in this Territory" and for other purposes.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall be the duty of the clerks of each and every of the Courts of record in this Territory, to keep in his office a book for memorandums, upon which said book shall be entered and signed by the party requiring it, or by his Attorney at law or Attorney in fact, a memorandum or order for every writ, subpoena, copy of a paper, or record required, or other process or writ of execution other than a writ of Venditioni exponas, for which said order

Clerk keep a book of memorandums.

such clerk shall be entitled to a fee of twelve and a half cents.

Fees of clerks
and other offi-
cers.

Sec. 2 *Be it further enacted*, That all fees of clerks or other officers of court, shall be chargeable against the person or party for whose use and in whose name any service is required and rendered, or against any security for costs of any such person or party, but not against any agent or attorney of any such person or party unless such agent or attorney shall have personally bound himself, herself, or themselves, as security for such costs.

Fees payable
half yearly, re-
ceivable by
sheriff.

Sec. 3. *Be it further enacted*, That all fees owing and contracted officially with any of the clerks of any Court of record in this Territory, shall become due and payable half yearly, that is to say, before the first days in January and June in each, and every year, and it shall be the duty of each and every of the clerks aforesaid, within one month thereafter, that is, on or before the first days of February and July in each and every year, to make out fee bills of the fees so due and owing as aforesaid up to the months of January and June aforesaid, against each and every person against whom such clerk shall have any demand for fees, and to tender them to the sheriff of the County in which such debtor shall reside, if known to said Clerk, whose duty it shall be to receive and receipt for the same.

Fee bills--force
and effect of
executions.

Sec. 4. *Be it further enacted*, That the fee bills so made out and placed in the hand of the sheriff, shall have the force and effect of executions, and if any person against whom such fee bill is existing shall refuse to pay the same, it shall be lawful for the sheriff in whose hand such fee bill is placed, to distrain the personal estate of any such person sufficient to satisfy said fee bill, and to sell said property at public sale, giving ten days notice thereof by a written advertisement, posted at some public place in his County.

Sheriff account
to clerk in four
months.

Sec. 5. *Be it further enacted*, That in four months after any sheriff shall have received a list of fees as is herein-before directed, he shall be bound to account with the clerk from whom he shall have received such

list, and upon all fee bills not collected, a return of no inhabitant of the County or of insolvency, shall be good to exonerate such sheriff from accounting with said clerk otherwise therefor than by returning said fee bills.

Sec. 6. *Be it further enacted*, That upon all sums actually collected by any sheriff upon fee bills as hereinbefore expressed, he shall be entitled to have and retain in full compensation for said collection, a commission of ten per centum, which said commission shall be deducted from the amount of fee bills so actually put in his hands for collection, and collected, but shall not in any manner be charged in or upon said fee bill, so as to make any debtor upon any fee bill responsible for or actually to pay said commission, or any part thereof.

Sheriff entitled
to ten per cent.

Sec. 7. *Be it further enacted*, That all fee bills returned to the clerk as hereinbefore expressed, may be relisted with the same or any other sheriff for collection as often as said clerk shall think proper.

Fee bills relisted.

Sec. 8. *Be it further enacted*, If any clerk shall fail or refuse to make out his fee bills, and to list or tender the same for collection within the times and in the manner herein prescribed, that all such fees not made out and listed with, or tendered to the sheriff as aforesaid, shall be and remain upon the footing of common accounts and collectable only as they are.

Fee bills collected as common accounts in certain cases.

Sec. 9. *And be it further enacted*, That so much of the act to which this is in addition and amendment of, as is inconsistent with the provisions herein contained, be and the same is hereby repealed.

Repeal.

This act shall be in force from and after its approval.

Passed December 9th 1825:

A. BELLAMY,
President of the Legislative Council.
SAML. FRY, Clerk.

[Approved December 9th 1825.]

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

In addition to an act respecting the probate of wills and the granting of letters testamentary and letters of administration, and the duties of executors, administrators and guardians.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That when any lands and tenements of an intestate, whose personal estate and slaves shall not be sufficient to pay his or her just debts, shall be in any County of this Territory, where there shall be no county court organized, it shall and may be lawful for the administrator of such intestate, to apply by petition to the county court of any county adjacent to that where such land may lie, for permission to sell the same, or a sufficient part thereof at public sale, to discharge the debts of the intestate, and upon satisfactory cause shewn, the said court may from time to time order and direct such sale to be made, under the provisions of the twenty first and twenty second sections of the act to which this is in addition.

Intestate--ad-
ministrator ap-
ply to sell.

Administrator
render account.

Sec. 2. *Be it further enacted,* That every administrator making a sale in pursuance of the provisions of the preceeding section, shall render an account of the same to the court which granted such permission to sell, at the next term of said Court.

No administra-
tor--clerk take
charge ex-offi-
cio--death of
administrator--
new letters.

Sec. 3. *Be it further enacted,* That when any person shall die leaving property in this Territory, and for the space of six months thereafter no person shall be appointed administrator on the estate of such deceased person, it shall be the duty of the clerk of the County court "*ex-officio*" to take charge of such estate, and to administer on, and settle said estate in the same manner as directed for other administrators in the above recited act, and in case of the death of any administrator, or of the revocation of the letters of administration given to any administrator, it shall be the duty of the county court in term time, and of the presiding Judge thereof in vacation, to grant new letters of administration to any person entitled to the same, according to

the provisions of the fourth section of the above recited act, and in case of no person applying for letters of administration, or of no person being appointed administrator of such estate according to the provisions of the fourth and fifth sections of the said act, it shall be the duty of the clerk of the County Court "*ex-officio*" to proceed to administer on, and settle such estate under order of the aforesaid Court.

Passed December 1st 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 5th 1825.]

WM. P. DUVAL.

Governor of the Territory of Florida.

AN ACT

In addition to "An Act to determine the fees of certain officers in this Territory, and for other purposes.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That in all civil cases, Jurors shall receive for their services, twenty five cents each, for every verdict by them delivered, and the amount due to each Jury, shall be paid to the foreman of such Jury, by the plaintiff in the action, previously to the delivery of their verdict to the clerk.

Jurors receive
a fee.

Passed December 5th 1825.

A. BELLAMY,

President of the Legislative Council,

SAML. FRY, Clerk,

[Approved December 8th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

Concerning Dower.

Intestates---wi-
dow may dissent
to will dower---
proviso.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That when any person shall die intestate, or shall make his last will and testament, and not therein make any express provision for his wife, by giving and devising unto her, such part or parcel of real and personal estate as shall be fully satisfactory to her, such widow may signify her dissent thereto in the superior or county court of the county wherein she resides, (and if there be no court in the county then to either of said courts in the next adjoining county,) at any time within one year after the probate of such will, and then and in that case, she shall be entitled to dower in the following manner, to wit: one third part of all the lands, tenements, and hereditaments, of which her husband died seized and possessed, or had before conveyed, whereof said widow had not relinquished her right of dower as heretofore provided for by law, which third part shall be, and inure to her proper use and behoof in and during the term of her natural life; in which said third part shall be comprehended the dwelling house in which her husband shall have been accustomed most generally to dwell next before his death, together with the offices, outhouses, buildings, and other improvements thereunto belonging or appertaining: *Provided*, that if it should appear to the Judge or Justices of the courts to whom application is made, that the whole of said dwelling house, outhouses, buildings, and other improvements thereunto appertaining cannot be applied to the use of the widow, without manifest injustice to the children or other heirs, then, and in that case, such widow shall be entitled to such part not less than one third part only as the Court may deem reasonable and just.

Sec. 2. *Be it further enacted,* That when a husband dies intestate, or shall make his last will and testament, and not make provision therein for his wife or

expressed in the first section of this act, she shall be entitled to share in the personal estate in the following manner, to wit: if there be no children, or if there be but one child, in that case she shall be entitled out of the residue left, after paying the debts of the deceased, to one half: but if there is more than one child, in that case she shall be entitled to one third part in fee simple, except slaves, in which she shall have life estate.

Widow entitled to share in personal estate.

Sec. 3. *Be it further enacted*, That it shall be lawful, after the passing [of] this act, for any widow claiming dower, to file her petition in the superior or county court, in the county where her husband shall have usually dwelt next before his death, (if there be neither of said courts in said county, then and in that case, in the next adjoining county,) setting forth the nature of her claim, and particularly specifying the lands tenements, and hereditaments, of which she claims dower, and praying that her dower may be allotted to her; whereupon said court shall issue their writ to the sheriff, commanding him to summon five discreet freeholders as Commissioners connected with the parties, neither by consanguinity or affinity, and entirely disinterested, who, upon oath, (which oath the sheriff is hereby authorised to administer,) shall allot and set off, by metes and bounds, to the said widow, one third part according to quantity and quality, of all the lands, tenements, and hereditaments, in said county, and shall put her in possession of the same, which possession shall vest in her an estate for her natural life; and when she has claim to dower to lands lying in different counties, she may proceed in the superior or county courts of the county where such land may lay, and make recovery in manner as is hereby directed, and the sheriff and commissioners shall also at the same time allot and set off to such widow her portion of the personal estate of which her husband died possessed, and to which by this law she shall be entitled, which part or portion shall be and inure to such widow, her

Widow file her petition, in court.

heirs, executors, administrators and assigns forever, with the exception herein before expressed.

Proceedings in
a summary way.
proviso---Not ex-
ecutors or ad-
ministrators..

Sec. 4. *Be it further enacted*, That the proceedings upon such petitions for dower shall be in a summary way, and the court shall at their first term, when such petition is filed, proceed to hear and determine as to them shall seem just and right; *Provided*, that the party petitioning for dower shall give ten days previous notice to the executors or administrators by serving them with a copy of said petition. And where there are no executors or administrators, or where they do not reside in the county of the residence of such widow, or where the widow shall be executrix or administratrix, then she shall give said notice by advertisement in one of the newspapers published in the Territory nearest to the residence of such widow, to be published four times in succession.

Widow retain
dwelling house
etc.

Sec. 5. *Be it further enacted*, That it shall be lawful for the widow to retain the full possession of the dwelling house, in which her husband most usually dwelt next before his death, together with the out-houses, offices or improvement thereunto belonging, free from molestation or rent, until she shall have her dower assigned her, also one years provisions for herself and family, to be set apart by three persons appointed by the court for that purpose.

Former act re-
pealed.

Sec. 6. *And be it further enacted*, That "An act concerning dower and jointure in lands and slaves of widows, approved September 14 1822, be, and the same is hereby repealed.

Passed December 6th 1825.

A. BELLAMY

President of the Legislative Council.

SAML. FRY, Clerk,

[Approved December 8th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To amend "AN ACT to abolish the fictitious proceedings in Ejectments and for other purposes therein mentioned."

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That so much of the above recited act as abolishes the fictitious proceedings in the action of Ejectment be, and the same is hereby repealed, and from and after the passage of this act it shall be lawful for the plaintiff at his election to avail himself of either the action of ejectment or of trespass to try title.

Former act repealed--transfer the case.

Passed December 1st 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 5th 1825.]

WM. P. DUVAL.

Governor of the Territory of Florida.

AN ACT

To provide for holding a term of the Superior Court in Leon County.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the Judge of the Middle District of Florida be authorised specially to hold a term of the superior court for the Middle District aforesaid at the City of Tallahassee in the county of Leon to commence upon Monday the twelfth day of December in the present year.

Judge of Superior court of Middle district hold a term 12th December.

Sec. 2. Be it further enacted, That service of any rule or citation to shew cause at said term shall be good if made or executed one day before trial.

Rule--citation.

Sec. 3. Be it further enacted, That the said court shall have power to order or issue any writ of Mandamus, Quo warranto Prohibition, Audita Querila, or

Mandamus--quo warranto--audita querila--procedendo

E

Procedendo, returnable immediately to said court if to said court any or either of said writs shall be considered necessary.

Special powers
for this term
only.

Sec. 4. *And be it further enacted*, That the special powers hereby given, shall only be considered as vested in said court during said special term, except so far as the same are vested in said court by any general law of this Territory, and the said term shall continue during one week, if the business of the court shall so long require and no longer.

Passed December 9th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[*Approved December 9th 1825.*]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To amend "An Act authorising the appointment of Justices of the peace and defining their powers."

Execution.--gar-
nishee.--inter-
rogatories.--pro-
viso.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That whenever an execution shall be returned, *nulla bona* or no property, it shall and may be lawful for the Justice issuing said execution, on application of the plaintiff, to issue a garnishee process against any person named by said plaintiff, to appear before said Justice at a time not less than six, nor more than ten days, to answer on oath what money, goods, chattles or property of any kind were in his hands, power and control or in what sum he was indebted to the defendant at the time of serving said notice, and any person neglecting or refusing to appear and answer such interrogatories as may be put to him or her touching said matter, shall be liable to the deficiency returned not satisfied in said execution.

and costs arising from such neglect or refusal ; *Provided nevertheless*, if said garnishee shall make sufficient excuse on oath to said Justice, within ten days of his, her, or their disability to appear and answer, that then and in that case he, she or they shall be exonerated from the penalties imposed.

Sec. 2. *Be it further enacted*, That whenever the county court of any county at any of its sessions, shall neglect to make appointment of constables in any of the extreme parts of said counties; a Justice of the peace is hereby authorised to make such appointments, and any appointments so made shall be as good and valid as if they were made by the county court ; said Justice taking bond in the sum of five hundred dollars, and administering the usual oath of office to said constable.

Appointment of
constables.

Sec. 3. *And be it further enacted*, That constables appointed either way, shall be confined to the jurisdiction or limits of the districts of the justice or justices within which they reside.

Confined to jurisdiction of
Justice of
peace.

Passed December 8th. 1825.

A. BELLAMY,

President of the Legislative Council

SAML. FRY, Clerk,

[*Approved December 9th 1825.*]

WM. P. DUVAL,

Governor of the Territory of Florida

AN ACT

To change and define the boundary lines of Escambia, Walton, and Jackson.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, the county of Escambia shall comprehend all that part of the Territory of Florida, lying to the west of a line, beginning at the East end of St. Rosa's Island in the Gulf of Mexico, running thence a

Escambia,

Northwardly course to a point where the boundary line of Alabama and Florida crosses the black water creek

Walton.

Sec. 2. *Be it further enacted*, That there be and hereby is established, a county to be comprehended within the following boundary lines ; begining on the boundary at the point where the same crosseth the Black water creek running East along the boundary of said Territory to where the same intersects the Choctawhatchie river ; thence down the channel of the same including the Bay to the Gulf of Mexico ; thence along the shores of the Gulf to the begining, to be called Walton County.

Jackson.

Sec. 3. *Be it further enacted*, That Jackson County shall be comprehended within a line on the west corresponding with the aforesaid Eastern boundary line of Walton county, and on the North by the boundary line of the State of Alabama, to where the same intersects the Chatahootchie river, thence down the channel of the same, and that of the Apalachicola, until it is intersected by Hamley's trail ; thence Northwardly the nearest direction to the Oakyhill, leaving the settlements of the same to the Southward and westward ; thence a direct course to Bunkers, on the Choctawhatchie ; thence up the channel of the same to the begining.

Washington.

Sec. 4 *Be it further enacted*, That there be and hereby is established, a county to be comprehended within the following boundary lines ; begining at Bunkers on the Choctawhatchie, running thence on the Jackson county line to the south to where Hamley's trail intersects the Apalachicola river, thence down the channel of said river including Cape St. Blass, and Islands of said Bay, together with the Islands along the Main ; thence a direct course to the head of St. Rosa's Island ; thence bounded by the northwardly line of Walton county to the begining, to be called Washington County.

Sec. 5. *And be it further enacted*, That the act entitled "An Act defining the boundaries of Escambia,

Walton, and Jackson Counties passed the twenty ninth of December Eighteen hundred and twenty four, is hereby repealed. Repeal of former act.

Passed December 9th 1825.

A. BELLAMY

President of the Legislative Council,
SAML. FRY, Clerk,

[Approved December 9th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

Concerning divorces and alimony.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the superior courts of this Territory shall have jurisdiction of all causes of divorce by this act directed and allowed: Provided the party applying for such divorce, be a resident of this Territory, and shall have resided therein, at least one year next preceeding the filing of his or her bill for such divorce.

Superior courts have jurisdiction of all divorces.--proviso.

Sec. 2. *Be it further enacted, That the like process and course of practice and proceedings shall be had and pursued in causes of divorce, as is usually had and pursued in other causes in chancery, except that the answer of defendant, shall not be under oath.*

Chancery practice.--exception.

Sec. 3. *Be it further enacted, That divorces from the bond of matrimony, shall be decreed in case the parties are within the degrees prohibited by law, in cases where either party is naturally impotent, and in case of adultery in either of the parties, and also for wilful, continued and obstinate desertion for the term of five years; but the decree or sentence of divorce in such cases shall not render illegitimate the issue born during such marriage.*

Divorces.--consanguinity--impotency.

Sec. 4. *Be it further enacted, That divorces from*

Bond of matrimony---issue illegitimate.

the bonds of matrimony shall also be decreed, where either of the parties had another wife or husband living at the time of such second or other marriage, or marriages where either of the parties shall have a former wife or husband living at the time of such marriage, shall be invalid from the beginning and absolutely void, and the issue thereof shall be deemed to be illegitimate, and subject to all the legal disabilities of such issue.

Collusion.

Sec. 5. *Be it further enacted*, That if it shall appear to the court that the adultery complained of, is occasioned by collusion of the parties, and done with intention to procure a divorce, or that both parties have been guilty of adultery, then no divorce shall be decreed.

Bed and board. extreme cruelty---collusion.

Sec. 6. *Be it further enacted*, That divorce from bed and board shall be decreed for extreme cruelty in either of the parties, but if it appear that the cruelty complained of, is occasioned by the collusion of the parties, and done with intent to obtain such divorce, then no divorce shall be decreed.

Maintenance of children--alimony--security.

Sec. 7. *Be it further enacted*, That when a divorce shall be decreed on account of the parties being within the prohibited degrees, or for the cause of adultery, or extreme cruelty, the court shall and may in every case, take such order touching the care and maintenance of the children of that marriage, and also touching maintenance and alimony of the wife, or any allowance to be made to her, and if any, the security to be given for the same, as from the circumstances of the parties and nature of the case may be fit, equitable and just.

Incest.

Sec. 8. *Be it further enacted*, That if any persons who shall be divorced on account of their being within the degrees prohibited by law, shall, after such divorce, cohabit together, such persons so offending, shall be liable to all the pains and penalties provided by law against incest.

Sec. 9. *Be it further enacted*, That if any persons shall cohabit or live together in the same house after

a divorce for the cause of prior marriage, or adultery, such persons so offending shall be liable to all the pains and penalties provided by law against adultery.

Cohabit or live
in same house--
adultery.

Sec. 10. *And be it further enacted,* That in all cases of divorce, if the party against whom the complaint is made, shall reside out of this Territory, or have removed, or shall after the cause of complaint has arisen, remove out of the Territory so that process cannot be served, or if served the party cannot be compelled to appear and answer or plead, it shall and may be lawful for the court on bill filed and due proof that the defendant resides out of the Territory or hath removed as aforesaid, to order a hearing on the facts charged in the said bill, and thereupon to pass a decree in the same manner, as if the defendant had appeared and were present in Court: *Provided always,* that a copy of the said order for hearing be published in one of the public newspapers of this Territory for the space of three months at least before the day appointed for the said hearing.

Party residing
out of Territory
--court order a
hearing of facts.
proviso.

Passed December 7th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 9th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

Amending and in addition to "An Act concerning executions" approved December twenty ninth, 1824.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That when an execution be issued in any manner prescribed by the act to which this is an addition, and the same shall be levied upon the goods and chattles or slaves of any defendant or defendants in execution it shall and may be lawful for

Defendant may
surrender title
to land first.

such defendant, if he elect to do so, to surrender into the hands of the officer charged with the collection of said execution, titles to lands, first to be disposed of in satisfaction of said execution, before any sale shall take place of the goods and chatties or slaves so levied upon as aforesaid, and if said lands shall, after being sold in the manner in said act expressed, produce a sufficient sum to satisfy and discharge said execution, the said goods and chatties or slaves so levied upon shall be restored to the defendant in execution, and all claim by virtue of said execution released thereto;

Defendant give
sheriff forth
coming bond for
personal estate
levied on.

Sec. 2. *Be it further enacted*, That when any defendant or defendants in execution, shall elect a sale of his lands in substitution of personal estate as in the foregoing section is authorised, it shall be lawful for the officer to whom such execution is directed, to take from such defendant or defendants a forthcoming bond with good and sufficient security, in a penalty of double the sum for which said execution is issued conditioned, in case the lands so elected to be surrendered, shall not sell at public sale for a sum sufficient to discharge the execution by virtue whereof said personal estate is levied upon that then said personal estate shall be returned to the said officer, or the bond shall remain in full force and effect in law, and all such bonds shall be taken in the name of the officer whose duty it may be to receive them.

Sheriff to re-
turn personal
property.

Sec. 3. *Be it further enacted*, That when any defendant or defendants shall avail himself herself or themselves of the privilege in the first section of this act granted, and shall execute the bond with security in the second section of this act authorised, that then it shall be the duty of any officer, who by virtue of an execution, shall have levied upon and taken into possession any personal estate of such defendant or defendants to return the said personal estate to such defendant or defendants forthwith.

Sec. 4. *Be it further enacted*, That for the violation of the condition of the bond authorised by the second section of this act, it shall be lawful for any of

officer for whose use or in whose name such bond is taken, to move any court of record, having jurisdiction thereof for judgment against each or every the obligors in said bond, giving each or any of them six days notice, of such motion in writing which judgment it shall be lawful for said court to enter during term time.

Sheriff move for judgment.

Sec. 5. *Be it further enacted*, That so much of any and every law as requires that real estate shall be valued or appraised or advertised in any news paper before the same can be sold under execution be and the same is hereby repealed, and that henceforth when any real estate shall be levied upon or surrendered to be sold in virtue of any execution, it shall and may be lawful for any sheriff or other officer to whom such execution is directed, to advertise by writing posted up at three or more public places in the county where said land shall lay the sale thereof, which sale shall take place at the Courthouse or place of holding court in the County where the lands so advertised shall lay ; provided however that no such sale shall be made unless the same be advertised as aforesaid for the space of thirty days.

Real estate not to be advertised or appraised--posting--proviso.

Sec. 6. *Be it further enacted*, That any person having a right to any execution from any court of record in this Territory, may order the same directed to the sheriff of any county in this Territory, returnable at any number of days not less than thirty or more than ninety, as such person either by himself or Attorney by written memorandum left with the clerk of any such court shall direct, and if the return upon any execution shall be "Executed" but not time to sell then a *Venditioni exponas* shall be issued by the clerk of course and without order.

Execution in another county--venditioni exponas.

Sec. 7. *And be it further enacted*, That so much of any law or laws now in force, as is inconsistent with

Former laws inconsistent repealed.

the provisions or any of them in this act contained, be
and the same is hereby repealed.

Passed December 9th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, *Clerk.*

[*Approved December 9th 1825.*]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To prescribe forms of action for certain actions at common law,
and for other purposes therein expressed.

Preamble.

Whereas, great perplexity and inconvenience hath
often occurred to the good citizens of this Territory
from a want of knowledge of the forms prescribed and
used at common law in drawing of declarations; for
remedy thereof,

Certain forms of
action

*Be it enacted by the Governor and Legislative Council
of the Territory of Florida, That the forms given by
this statute, and in the cases herein after directed, shall
be taken and accepted, by every, and each of the
courts of record of this Territory, which are now, or
may hereafter, be lawfully established, as good and
sufficient in form and in substance, upon which to au-
thorise any plaintiff or plaintiffs, in all or each of said
actions, suits or demands, to have and maintain, his
her or their, said action, suit or demand, without the
claim or demand of any defendant or defendants, to
have or require, any other or further declaration from
all, or any of said plaintiffs, than is hereinafter provid-
ed for, in the cases hereinafter provided for, that is to
say.*

*Sec. 2. Be it further enacted, That upon all bonds,
notes, bills of exchange, or writings obligatory, whe-
ther executed under seal, with a scroll, or without*

either, for the direct payment of money, the following shall be a sufficient form of declaration, " ——— County ——— Court (if in the superior Court) ——— District ct. A. B. plaintiff, states that he holds a writing obligatory upon C. D. defendant, in substance as follows to wit ; " (here insert a copy of the bond, note or bill of exchange, or writing obligatory, upon which the action, suit, or demand, is based,) if the plaintiff sues by virtue of any assignment set forth the assignment as follows : "upon which is the following assignment, (or as the case may be assignments,) whereby the plaintiff is entitled to sue to wit : " (here insert a copy of the assignment, if any and proceed,) yet the said debt remains unpaid, wherfore he. (or as the case may be she or they) prays judgment for his (her or their) debt, and damages for the detention of the same, together with his (her or their) costs &c. A. B. p. p. or E. F. Atty. for Plff.

Bonds---bills of
exchange---writ-
ings obligatory.

Sec. 3. *Be it further enacted*, That upon all covenants for a liquidated sum or sums, and made payable in bank notes, or any other notes, bonds, bills of exchange, or in any merchandize, or other commodity, or in work and labor, whether the said covenant, or covenants be executed under seal, or with a scroll, or without either, the following shall be a sufficient form of declaration : " ——— County ——— Court (if in the superior court) ——— district to wit : A. B. plaintiff, states that he holds a covenant upon C. D. defendant, in substance as follows to wit : (here insert a copy of the covenant upon which the action, suit, or demand, is based,) and if held by assignment, set forth the assignment, or assignments as is prescribed in the second section of this act, and proceed ; nevertheless the said defendant hath not kept and performed his said covenant, but hath broken the same, and the same still remains undischarged and unsatisfied, wherefore he prays his damages may be awarded to him by a jury, and that he may have all legal costs &c. A. B. p. p. or E. F. Atty. for pltf.

Covenants.

Sec. 4. *Be it further enacted*, That upon all mer-

Merchants ac-
counts--for me-
chanical skill
labor--goods
wares and mer-
chandize--work
and labor--any
account.

Merchants accounts, accounts for mechanical skill and labor, accounts for goods, wares or merchandize, sold and delivered, or upon any account for work and labor done or performed, or upon any account, claim or demand, due by parol upon which, *Indebitatus assumpsit Quantum Meruit*, or *Quantum Valebit*, can be sustained at common law, the following shall be a sufficient form of declaration to wit : — County — Court (if in the superior Court) — District to wit : “A. B. plaintiff, states that he claims an account against the defendant C. D. of which the following is a copy to wit :” (here insert a copy of the account, claim or demand, and conclude as follows) which said account or some part thereof remains due and unpaid from the said defendant, to the said plaintiff; wherefore he prays the intervention of a jury thereon, that they may ascertain by their verdict how much he merits, or how much is just, or how much of indebtedness there is from the said defendant to him, and that they may award to him in damages their finding; he prays also his costs &c. A. B. p p or E. F. atty. for Pltff.

Detinue.

Sec. 5. Be it further enacted, That in all cases in which any person, or persons, shall come to the possession of any writing, or writings, or goods, wares or merchandize, or chattles, or negro slave or slaves, the property of any other person or persons whosoever, by whatsoever means such possession shall be effected, whether legal or illegal, *provided* where such possession was rightfully obtained, the duration of such right shall have been determined, and where the owner or owners, of any such writing or writings, goods, wares, merchandize, chattles or negro slave or slaves, shall be desirous to reclaim any or all of the identical articles in this section before enumerated, it shall be lawful for such owner or owners to commence and prosecute an action of detinue for the same, and the following shall be taken and considered a good and sufficient form of declaration for any case designated in the foregoing part of this section to wit : “ — County — Court, (if in the superior court) — District sct.

A. B. plaintiff, states that C. D. defendant, has in his possession, of the proper goods and chattles of the plaintiff, (here insert the species of thing or things demanded, and a reasonable description of it or them, and conclude as follows.) of which said goods and chattles the plaintiff is entitled to be possessed, and avers their reasonable value to amount to the sum of — wherefore he prays a jury to be called to enquire whether the aforesaid goods and chattles be or be not, the property of the plaintiff, as also to ascertain their value, and that a judgment of restitution may be awarded him by the court, also in default thereof that an execution may be issued to take the aforesaid goods and chattles, if to be had, and if not, that their value in money be made of the estate of the defendant; he prays his full damages for the illegal detention of the said personal estate, and also his costs &c. A. B. p. p. or E. F. atty. for pltf.

Sec. 6. *Be it further enacted*, That when any person shall, by virtue of any of the foregoing sections of this act, file in the clerks office of the court where he shall choose to commence his suit, a declaration conforming himself substantially to the forms for declaring hereby and herein before given, and shall also file with the clerk a memorandum or order, directing him to copy declaration and issue summons (or as the case may be writ) and shall by himself sign his name thereto, or by any attorney at law of said court shall sign his name thereto as attorney for plaintiff, it shall be lawful for said clerk in all or any of said cases, to copy the declaration or declarations as aforesaid, and to append thereto a summons in substance as follows: "Territory of Florida — District — County — Court set. To the sheriff of said county greeting; you are hereby commanded to summon C. D. the above named defendant, if he be found in your county to appear before the Judge of (or Judges of) our aforesaid court at the court house in the county aforesaid upon the — day of the — term of our said court, to answer A. B. the plaintiff in a plea of (debt, covenant, account, or

Plaintiff may file declaration. clerk shall issue summons.

detinue as the case may be) which has been exhibited against him by the declaration of the plaintiff, of which the above is a true copy, and make due return how you have executed this summons, witness G. H. clerk of our said court at the court house aforesaid this — day of —18— and of the Independence of the United States the —year. G. H. Clerk.”

Delivery of declaration & summons to defendant good service, or leaving same at usual place of abode—proviso.

Sec. 7. *Be it further enacted*, That service of the summons directed by the foregoing section of this act shall be, by delivering a true copy of the declaration and summons so issued as aforesaid to the defendant, or leaving the same at his usual place of residence with some white person of his family above the age of fifteen years, at least thirty days before the term of the court to which the same is made returnable, in which case a trial shall be demandable of course: *Provided however*, that service of such summons as aforesaid shall be good and valid if executed within less than thirty days of term time, but the defendant shall of right in such case have a continuance until the term next after the appearance term of the cause.

Bail demandable in certain cases.

Sec. 8. *Be it further enacted*, That in all actions allowed and commenced, under the second and third sections of this act, bail shall be demandable of course by the plaintiff or by his attorney for him, and that in all actions allowed and commenced under the fourth and fifth sections of this act, bail shall be allowable only so far, and in such cases, and under such restrictions, as are imposed by the act regulating judicial proceedings, approved December 30th 1824, and such act or acts as may be hereafter made amendatory thereof.

When bail is demandable, clerk to issue *capias ad respondendum*.

Sec. 9. *Be it further enacted*, That in all cases where by the foregoing section of this act, bail can and shall be required by the plaintiff or his attorney for him, it shall be lawful for the clerk, whose duty it shall be to issue process, to append to a copy of the declaration a writ of *Capias ad respondendum*, in substitution of the summons hereinbefore directed, which said writ shall be executed as directed by the act regulating judicial

proceedings, approved December 30th 1824, and such act or acts as may be hereafter made to amend the same.

Sec. 10. *Be it further enacted*, That the lawful return or returns upon the summons herein before directed shall be, "executed by delivering a true copy of this declaration and summons to the defendant this — day of — 18 — I. K. sheriff — County ; or with L M. of the family of the defendant, at his usual residence this — day of — 18 — I. K. sheriff of — County ; or the defendant is not found ;" is no inhabitant of the county ; "is dead ;" or "not time to execute ;" and all and every return or returns other than is herein directed, shall be illegal and of none effect.

Returns.

Sec. 11. *Be it further enacted*, That if the return upon any such summons be, that the defendant is no inhabitant of the county, or is dead, the cause shall abate ; otherwise when execution of process has not been had, the plaintiff shall have *alias* and *pluries* summons as often as he shall require.

Defendant no inhabitant or dead--suit abate ---otherwise alias and pluries.

Sec. 12. *Be it further enacted*, That the general issue to any or all of the actions given by the second or third sections of this act shall be *non est factum*, which must be under oath ; that the general issue in any or all of the cases under the action, given by the fourth section of this act, shall be *non assumpsit*, and that the only issue to the action given by the fifth section of this act, shall be *non detinet*.

General issue-- non estfactum-- non assumpsit... non detinuc.

Sec. 13. *Be it further enacted*, That in any cause brought under and by virtue of the second, third, or fourth sections of this act, the defendant shall be allowed to file as many pleas as shall be deemed necessary to investigate the merits of his defence, and the same pleas shall respectively be lawful as if the said actions or any of them had been commenced at common law.

Defendant allowed to plead as many pleas as necessary.

Sec. 14. *Be it further enacted*, That no advantage shall be taken of any defendant for pleading pleas not consistent with each other, but in such case the jury shall be sworn to try the issues joined, and to make a true verdict thereon according to law and justice.

No advantage-- inconsistent pleas.

Judgments...ex-
ecution.

Sec. 15. *Be it further enacted*, That in all cases where judgment or judgments shall be given under and by virtue of this law, execution shall issue and be executed as is, or may be directed at law in other cases of a like nature.

join any num-
ber of plaintiffs
or defendants.

Sec. 16. *Be it further enacted*, That in any cause brought under the provisions of this act, it shall be lawful to join any number of plaintiffs or defendants together in any action, and it shall not be considered at variance from the prescribed forms in said acts contained, so to word any declaration therein given as to include pluralities of parties to any and every of said actions.

Proviso.

Sec. 17. *Be it further enacted*, That nothing in this act contained, shall be so construed as to abridge the rights of any party or parties plaintiff, from commencing any, all and each of their said actions, suits, or demands, as though this act did not exist, unless he, she, or they, shall select to pursue the remedies herein given.

Passed December 2d 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 5th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

For the relief of Daniel C. Hart and Sears Bryan.

Whereas a law of this Territory entitled "An Act providing for the election of delegate to Congress" approved July the third, eighteen hundred and twenty three, makes it obligatory on the Sheriffs of each county to transmit to the Governor, the returns of the election within ten days after they are made out to him, and whereas the said Daniel C. Hart and Sears

Bryan ; sheriff of Duval, and acting sheriff of Jackson county, were compelled in compliance with the afore-said provision of said law, to travel from Jacksonville in Duval county to Tallahassee, and St. Andrews Bay in Jackson county to Tallahassee, and have received no compensation, therefore,

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the said Daniel C. Hart be paid thirty dollars and Sears Bryan fifteen dollars from any monies in the treasury not otherwise appropriated as a full compensation for their services.

Compensation
out of treasury.

Passed December 9th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 9th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

For the relief of John Y. Garey.

Whereas it is represented to the present Legislative Council, that John Y. Garey had erected, or that there had been erected for his use upon one of the lots in the city of Tallahassee, a wooden building by which he became entitled to a pre-emption right to the lot upon which said building is situated, and whereas the said Garey, failed to comply with the provisions of said act in the time therein prescribed, to secure to himself his said house with the lot on which it is situated, for remedy thereof.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the time which said Garey shall be allowed to determine his right to said lot, as prescribed by an act to provide for the laying off the town of Tallahassee, and the sale of the lots therein, approved December the 11th, 1824 be ex-

Time extended.
actions between

tended to the first day of February 1826 ; any thing in the before recited act to the contrary notwithstanding.

Passed December 6th 1825.

A. BELLAMY,

President of the Legislative Council

SAML. FRY, Clerk.

[Approved December 8th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To amend an act concerning limitations of actions.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all actions on such accounts as concern the trade of merchandize between merchant and merchant, their factors and servants shall be brought within the term of five years, after the delivery of the articles charged and not after.

merchants---lim-
itation of.

Sec. 2. *Be it further enacted,* That all the actions on merchants accounts shall be brought within the term of two years from the delivery of the articles, and not after.

Merchants ac-
count.

Sec. 3. *Be it further enacted,* That upon all claims demands or other rights which can be enforced by any personal action created or existing at the time that this Territory was ceded by and from the Spanish Government, and came into the possession and under the Government of the United States and not otherwise limited by law, the said actions shall be com-

Claims,demands
or rights exist-
ing under Span-
ish government
--limitation of.

enced before the first day of March one thousand eight hundred and twenty seven, or shall forever be barred by operation of limitation.

Passed December 7th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 8th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

For the relief of William Drummond.

Whereas it is represented to this present Legislative Council, that Martha Drummond, formerly Martha Rain, has violated her conjugal fidelity to her husband William Drummond, an inhabitant of St. Johns county in this Territory.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the marriage of the aforesaid William Drummond with Martha his wife, formerly Martha Rain be, and the same is, hereby dissolved; and the said William Drummond is hereby released from all civil or moral obligation, to contribute any money, or other thing to the support, or maintenance of the said Martha Drummond formerly Martha Rain.

Marriage of dissolved---former name.

Passed December 6th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 8th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To Govern Patrols.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That every captain or commanding officer of a company of Infantry or foot Militia throughout this Territory is hereby authorised, empowered and required severally and respectively, together with the subaltern officers if any such there be, and they shall in concert sub-divide and lay out his district into as many convenient patrol divisions as they shall think proper and most convenient to the men; which said subdivisions shall thenceforth be the patrol divisions until altered by like authority, and wherein the owners of settled plantations as well as the other inhabitants of any such patrol divisions as well alarm men as others of horse and foot, between the age of sixteen and sixty years, shall be subject to the patrol duty of that division and shall either by themselves in person or by others employed for that purpose, do their patrol duty regularly according to the intent and meaning of this act.

Sec. 2. *Be it further enacted,* That if any captain or commanding officer shall omit or fail to subdivide his company district in manner herein-before enjoined, or afterwards at any muster day or within five days after such muster day shall neglect to prick off the several patrols as is herein-after directed, that every such captain or commanding officer so failing shall respectively be subject to and pay the penalty of ten dollars: to be recovered by warrant of distress, under the hand of any justice of the peace for the district where such offence shall be committed, which sum when collected shall be paid over to the county Treasurer for county purposes: and all masters, parents and guardians shall furnish any apprentice, minor or ward under his or their care with a horse and necessary equipage required to perform patrol duty at such times as may be appointed under penalty of five dol-

Officers of Infantry or foot militia to lay out their district into patrols---ages.

Captain or commanding officer failing-- penalty ---masters, parents--apprentice ---fines.

lars. and that they shall also be bound to pay all fines that may be imposed for failure to perform duty when duly notified, to be adjudged by a majority of the company officers of the district in which they reside, and levied by distress and sale of the offenders goods under the hand and seal of the captain or commanding officer of the district, or by a justice of the peace; the money when collected to be paid to the Treasurer for the benefit of the county unless sufficient excuse be made to the officers of said company on the next muster day.

Sec. 3. *Be it further enacted,* That on every muster day the captain or commanding officer shall prick off from his list adding in alarm men and minors not less than six nor more than ten names, from which number he shall select one proper person as captain, and that the patrol may be divided or subdivided according to the convenience of the men to act within the several sub-divisions of the district, making returns to their captain, and he to the captain of the district; and if any person shall have been regularly appointed to command the patrol agreeably to the above recited act, who shall refuse to accept of such command, or after acceptance thereof shall refuse or neglect to perform his duty, such person so offending shall, for every such offence forfeit and pay a sum not exceeding ten dollars to be adjudged by a majority of the officers of the company and levied by distress and sale of the offenders goods under the hand and seal of the captain or commanding officer of the company or a justice of the peace; the money to be paid to the Treasurer for county purposes.

Sec. 4. *Be it further enacted,* That all and every person or persons liable to do and perform patrol duty as prescribed in the above recited act, who shall refuse or neglect to do so shall forfeit and pay a sum not exceeding two dollars for each offence to be adjudged by a majority of the company officers of the district and levied by distress and sale of the offenders goods under the hand and seal of the captain or commanding

Captain at each
muster day to
prick off—re-
turns—penalty.

Penalty for re-
fusing to patrol
--duty of patrols
to make return;

officer of the district, or by a justice of the peace, the money when collected to be paid over to the county Treasurer for county purposes, unless sufficient excuse be made to the officers of such company on their next muster day; and it shall be the duty of patrols to make a true and just return of all defaults (defaulters,) in their respective districts to the captain or commanding officer of the company on the muster day after they shall have been appointed.

Duty of patrols.

Sec. 5. *Be it further enacted,* That every patrol shall go to, and examine the several plantations in their divisions at such times as they in their discretion shall see fit, one night in fourteen at least, and they shall take up all slaves which they shall find without the fences or cleared ground of their owners who have not a ticket or letter or other token to shew the reasonableness of their absence or who have not some white person in company to give an account of his her or their business and such patrol may correct every such slave or slaves by whipping with a switch, whip or cow skin not exceeding twenty lashes.

Assemblages of negroes.

Sec. 6. *Be it further enacted,* That it shall be the duty of patrols to disperse all improper assemblages or meetings of negroes above seven in number that may take place for the purpose of drinking or on any other occasion unauthorised by their owners, and should such negroes fail to disperse immediately when notified or behave insolently to the patrol, they may be taken up and whipped as before, with a switch whip or cow skin, each one so offending not exceeding twenty lashes, though they may have passes; and all free negroes found in such improper associations of slaves shall be subject to share the same treatment.

Captain of patrol to give one days notice--furnish arms and equipage.

Sec. 7. *Be it further enacted,* That the captain of any patrol shall give one day's notice to the men to turn out, and when on duty may at all times appoint his next time of turning out and where to meet, which notice shall be sufficient to all present, and the said captain may direct or point out the kind of arms they shall appear with, and it is hereby made the duty of every

person called on to furnish himself with the necessary arms and equipage and horse ; to be obedient to the orders of said captain, and carefully to avoid intoxication while on duty, under the penalty of five dollars for either of the offences, to be adjudged by a majority of the officers of the district in which they live, and to be levied by a warrant of distress under the hand and seal of the captain or commanding officer of the company, or by a justice of the peace ; the money when collected to be paid over to the Treasurer for county purposes.

Sec. 8. *Be it further enacted*, That the patrols shall enter into all negro houses and suspected places, and search for arms and other offensive or improper weapons, and may lawfully seize and take away all such arms, weapons and ammunition, and it shall be the duty of such patrol within three days after any such seizure, to take the same before the nearest justice of the peace and make oath of the manner of such seizure, and if no person calls within one week thereafter and makes proof that the same belongs to him or her, the articles shall on the next constables sale day be sold and the proceeds paid over to the Treasurer for county purposes.

Negro houses
and suspected
places.

Sec. 9. *Be it further enacted*, That it shall not be lawful for any slave, unless in the presence of some white person to carry and make use of fire arms or any offensive weapons whatever, unless such slave shall have a ticket or licence in writing from his master or mistress or overseer, to hunt and kill game cattle or mischievous birds or beasts of prey, and that such licence be renewed once every week.

Unlawful for
slaves to use fire
arms &c.—ex-
ception.

Sec. 10. *Be it further enacted*, That if any person or persons shall presume to give a ticket or licence to any slave who is the property or under the care or charge of any other without the consent of the owner or other person having charge of such slave, he she or they shall forfeit to the county ten dollars over and above the damages that may accrue to such owner by the absence of such slave.

Persons not au-
thorized giving
tickets—penalty.

Appeal in case
of fines.

Sec. 11. *And be it further enacted*, That in every case in which a fine or other punishment may be adjudged against any individual under the above act, the party defendant shall have a right to appeal to a justice of the peace, if within his jurisdiction, and if not, then to any court having jurisdiction thereof.

Passed December 6th 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, Clerk,

[*Approved December 8th 1825.*]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To incorporate Jackson Lodge of Tallahassee in the city of Tallahassee.

Officers of
lodge.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Robert Butler, Robert W. Williams and Isham G. Searcy the present officers and their successors and others who are or may hereafter become members of Jackson Lodge of Tallahassee in the city of Tallahassee, shall be and are hereby declared to be a body corporate and politic, in name and in deed, by the style of Jackson Lodge of Tallahassee, and by the said name and style shall have perpetual succession of officers and members, and a common seal to use ; and shall have full power to make, alter, amend and change such by-laws as may be agreed upon by the members of the same, *Provided always*, that such by-laws are not repugnant to the constitution and Laws of the United States or the laws of this Territory.

Power and au-
thority—provi-
12

Sec. 2. *Be it further enacted*, That they shall have full power and authority under the name and style of Jackson Lodge of Tallahassee, to take, hold, and enjoy real and personal property, to sue for and recover all such

sum or sums of money as now is or hereafter may become due to said Lodge, by any name or style whatever in any court of law or at any tribunal having jurisdiction thereof and do all other acts as natural persons, and may purchase and hold real personal and mixed property and dispose of the same for the benefit of the institution: *Provided*, that said Lodge shall not at any one time hold real estate to a greater amount than of the cost of ten thousand dollars or emit under any pretext bills of credit or bills or notes for the payment of money.

Passed December 7th 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, *Clerk*.

[*Approved December 8th 1825.*]

WM. P. DUVAL.

Governor of the Territory of Florida.

AN ACT

To establish a ferry across the Ocilla River.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That William Evans be, and he is hereby vested with all the right, and charged with all the duties of establishing the keeping a ferry over the Ocilla, at the point intersecting of the main road, which now is established and leading from Tallahassee to St. Augustine; and the said William Evans, his heirs, executors, administrators and assigns, be and remain for the term of ten years, vested and charged with the rights and duties aforesaid.

William Evans
vested with
right of ferry.

Sec. 2. *Be it further enacted*, That it shall be unlawful for any other person or persons to establish or keep a ferry within four miles of the ferry by this act provided for, unless the same shall be for his, her, or their own exclusive use and not for the purpose of gathering or receiving toll.

Unlawful for
any other.

H

Duty of William
Evans to keep
in repair--regu-
lations and toll
prescribed by
county court.

Sec. 3. *Be it further enacted*, That it shall be the duty of the said William Evans, his heirs, executors, administrators and assigns, at all times to have, and keep in good repair a flat boat of sufficient dimensions to carry across said river a loaded waggon and team, and that they shall be entitled to receive at the said ferry, toll at such rates, and shall be subject to such regulations as may be established by the County Court of the County of Leon, and the Legislative Council of this Territory.

Passed December 7th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[*Approved December 9th 1825.*]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To amend an act more effectually to provide for the organization of the Militia.

Colonels of re-
giments to cause
muster to be
held.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall be the duty of the Colonels of such regiments of the Militia as have not complied with the provisions of the first section of the act to which this is an amendment, to cause a muster of such regiment to be held at such times and places as shall be designated by the said Colonels or commanding officers of such regiments: *Provided*, That six

Weeks notice of the time and place of such muster shall be given by posting at the Court house, and at two other of the most public places in the County.

Passed December 7th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 9th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To establish a ferry across the Ocklockony river.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That William Ellis, be and he is hereby vested with the right and power of establishing a ferry, and charged with the duty of keeping the same in good repair, across the Ocklockony river, at or near where the old Tallahassee trail crosses the said river, and the said William Ellis shall continue in the enjoyment of the said right of ferry, for the space of ten years; *Provided*, he shall so long keep the said ferry in repair.

William Ellis
vested with the
right of ferry.

Sec. 2. Be it further enacted, That it shall be unlawful for any other person or persons to establish or keep a ferry, within two miles of this ferry, on said river, by this act provided for; unless the same shall be for his her or their own exclusive use and not for the purpose of gathering toll.

Unlawful for
any other per-
son.

Sec. 3. Be it further enacted, That it shall be the duty of the said William Ellis, his heirs, executors, administrators and assigns, at all times to keep in good repair a flat boat, or other craft of sufficient size to carry across the said river at any time a loaded wagon, and team, and that he the said Ellis, shall be subject to such regulations as may be established by

Duty of William
Ellis, his heirs
&c. &c. to keep
in repair--regu-
lations prescri-
bed by county
court--toll.

the county court of the county of Gadsden, and receive toll agreeably to an order of said court, unless otherwise provided for by the Legislative Council of this Territory.

Repeal of so much of former act repugnant.

Sec. 4. *And be it further enacted*, That so much of an act to establish a ferry over the river Ocklockony as militates against this act be and the same is hereby repealed.

Passed December 8th. 1825.

A. BELLAMY,
President of the Legislative Council.
SAML. FRY, Clerk.

[Approved December 9th 1825.]

WM. P. DUVAL,
Governor of the Territory of Florida

AN ACT

To provide, in part for raising a Revenue.

Governor to appoint auctioneers in each county.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That there shall be appointed and commissioned, by his Excellency the Governor of this Territory, within each of the Counties herein, one or more fit and discreet persons to act as auctioneer of all public sales at auction, except sales under and by virtue of any execution at common law or decree in Chancery.

Auctioneer to execute bond--penalty--exception.

Sec. 2. *Be it further enacted*, That every auctioneer, shall, before he enters upon the duties of his office, execute bond payable to the Governor, with two or more good and sufficient securities, to be approved by the Clerk of the County Court for the County in which such auctioneer may reside, in the penalty of two thousand dollars, conditioned to discharge the duties of his said office, according to law, except in the County of Monroe, in which County any such bond shall be

with the penalty of ten thousand dollars, to be approved by the Secretary of the Territory and filed with him.

Sec. 3. *Be it further enacted*, That if any such auctioneer shall, before executing bond as aforesaid, or if any other person, who is not appointed auctioneer, shall offer at public auction any goods, wares or merchandize, or other commodity, not the growth or production of this Territory, or some State or Territory within the United States, every such officer, or every such other person, shall forfeit and pay the sum of five hundred dollars for each and every offence of a similar nature, which shall have been committed upon different days; the one half of said fine to the use of any informer, and the other half for the use of this Territory; and every such forfeiture shall and may be recovered by action of debt, commenced in the name of any such informer for his own use and the use of the Territory, before any Court of record having jurisdiction thereon.

Fine for not entering into bonds--mode of recovery.

Sec. 4. *Be it further enacted*, That upon all sales at Public Auction by any commissioned auctioneer, it shall be his duty within ten days after such sale, to render to the Clerk of the County in which such auctioneer shall reside, a faithful and true account of the amount of the gross proceeds of such sale at public auction of all goods, wares, merchandize, or other commodity, not the growth or manufacture of this Territory, or of any other State or Territory in the United States, and shall moreover retain in his hands out of the gross proceeds of every such sale as aforesaid, at public auction, two per centum, to be applied to the use and for the benefit of the Territory of Florida.

Auctioneer render account sales to clerk per centum retained.

Sec. 5. *Be it further enacted*, That it shall be the duty of all clerks with whom any auctioneer shall render any account, as by the foregoing section of this act is required carefully to file and preserve the same in his office, for the use of any person who may be entrusted by the government to settle with any such auctioneer.

Duty of clerks thereupon.

Auctioneers to
account at cer-
tain periods.

Sec. 6. *Be it further enacted*, That it shall be the duty of each and every auctioneer who shall receive or retain any money as a tax upon auctions, to the use and for the benefit of the Territory of Florida, to pay the same over into the hands of the Treasurer of the Territory annually, on or before the first day of November in each and every year, or quarterly if said Treasurer shall demand payment so often.

Auctioneer re-
fusing to pay
over---treasurer
of territory to
enter judgment.
proviso.

Sec. 7. *Be it further enacted*, That if any auctioneer shall be in possession of any money belonging to the Territory by virtue of the foregoing sections of this act, and shall fail or refuse to pay over the same, at the times and in the manner in this act prescribed, it shall be lawful for the Treasurer of the Territory to take judgment against such auctioneer, and his securities, upon the bond hereinbefore required, by giving him or them ten days written notice of an application to any court of record for such judgment, upon motion, and said judgment shall be discharged by paying the sum actually due to the Territory by such auctioneer, and all costs of suit ; *Provided however*, that as often as such auctioneer shall forfeit the condition of the aforesaid bond, judgment shall and may be taken and discharged, in the manner in this section authorized, and one recovery on said bond shall be no bar to another except for the same cause of action.

Per centum of
auctioneer.

Sec. 8. *Be it further enacted*, That all auctioneers, acting under and by virtue of this act shall be allowed as commissions for sales at auction so by them and each of them made, four per centum upon the amount of sales so actually made, exclusive of the tax of two per centum for the Territory.

Sec. 9. *And be it further enacted*, That this act shall be in force from and after its passage.

Passed December 9th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 9th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

Appointing Commissioners to report on the expediency of opening a canal from the Gulf of Mexico to the Atlantic Ocean.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That James Gadsden, William H. Simmons and Edward R. Gibson, or a majority of them, be commissioners to examine into the expediency of opening a canal from the waters of the Gulf of Mexico to those of the Atlantic by the most advisable route through the Peninsula of Florida, and that they report to the next Legislative Council, on the consequences, practicability and probable cost of the operation ; the extent of assistance that may be derived from the General Government in aid of the undertaking, and the terms on which private enterprise and capital may be enlisted in its execution.

Commissioners.
report practica-
bility---extent
of assistance.

Sec. 2. *Be it further enacted*, That any monies advanced "ad interim" by individuals, and which shall be received and disbursed by said Commissioners in making the necessary examinations and surveys, shall be considered a component part of a general stock of a canal company, if it shall hereafter by the Legislative Council be deemed expedient to charter the same.

Monies advanced by individuals.

Sec. 3. *And be it further enacted*, That said commissioners shall not be entitled to any compensation for their services-

Passed December 7th 1825.

A. BELLAMY,
President of the Legislative Council.
SAML. FRY, Clerk.

[*Approved December 8th 1825.*]

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

For the relief of William F. Murrhee.

Whereas it is represented to this present Legislative Council, That Sarah Murrhee has violated her conjugal fidelity to her husband, William F. Murrhee, who is a resident of Nassau County in this Territory, in a most public and shameful manner : And whereas, the said William F. Murrhee has, with a number of the inhabitants of Nassau County, Florida, petitioned to be divorced from his aforesaid wife : Therefore, for the relief of the said William F. Murrhee.

Marriage dissolved.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the marriage of William F. Murrhee aforesaid, with his wife Sarah Murrhee, be, and the same is, hereby dissolved ; and the said William F. Murrhee is hereby released from all civil or moral obligation, to contribute any money or thing to the support or maintenance of the said Sarah, during their natural lives, or the natural life of either of them.

Passed December 8th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 9th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

 AN ACT

To provide for holding terms of the Superior Court for the Counties of Alachua and Gadsden, and for other purposes.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the Judge for the Superior Court for the Eastern District, shall hold a court on the second Mondays of April and December.

in every year, in the County of Alachua, and until the County seat of said County shall have been permanently established, said terms shall be holden at the house of Edward Dixon. Alachua.

Sec. 2. *Be it further enacted,* That the Judge of the Superior Court for the Middle District shall hold a Court on the third Mondays of April and October in every year, in the County of Gadsden, at the County seat of said County. Gadsden.

Sec. 3. *Be it further enacted,* That the Judge of the Superior Court for the Western District of Florida, shall hold a court on the first Mondays in March and September in each year, in the County of Jackson, at the house of Mrs. Hull, until the public scite shall be agreed on, and suitable buildings prepared ; Provided, that this section shall not take effect until the first of April next, and that such parts of law, as are inconsistent with this section, be and the same are hereby repealed. Jackson---proviso.

Sec. 4. *Be it further enacted,* That the Judge for the Eastern District shall, and he is hereby authorised to appoint in said county of Alachua a clerk for said court, and the Judge for the Middle District shall, and he is hereby authorised to appoint for said court in Gadsden County, a clerk : said clerks shall give bonds respectively in the sum of two thousand dollars, with security to be approved by the respective judges, conditioned for the faithful performance of their duties. Clerks in Alachua, ditto in Gadsden, clerks to give bonds.

Sec. 5. *Be it further enacted,* That so much of the seventh section of an act providing for holding terms of the Superior Court for the Counties therein mentioned, approved December the thirtieth, one thousand eight hundred and twenty-four, as gives jurisdiction to the Superior Court for the Eastern District, while sitting in St. Augustine, in all cases arising in said County of Alachua, and authorises the issuing of writs and process to run in said County, and the exe- Repeal of so much of act as gives jurisdiction to superior court over Alachua while sitting at St. Augustine.

cution of the same by the Executive Officer of said Court in St. Augustine, be and the same is hereby repealed.

Escambia, Jackson and St. Johns superior courts--duration of terms.

Sec. 6. *Be it further enacted*, That the Superior Courts for the Counties of Escambia, Jackson and St. Johns, shall each hold their said terms, and every of them, for and during two weeks at each term, if the business shall so long require, and no longer, that other terms in each and every of the Counties in this Territory, where by law any term or terms of said Superior Courts, or either of them are required to be held, the said terms shall continue for the term of one week each, if the business therein so long require, and no longer.

Sec. 7. *Be it further enacted*, That the eighth section of the above recited act be, and the same is hereby repealed.

Passed December 9th 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, Clerk,

[*Approved December 9th 1825.*]

WM. P. DUVAL,

Governor of the Territory of Florida

AN ACT

To provide for the establishment of a County Seat in the County of Jackson.

Whereas, considerable expense has been incurred by the inhabitants of Jackson County, in laying off and establishing a County Seat, in pursuance of a location made by the Commissioners appointed for that purpose, and whereas, much inconvenience and great obstruction to the due administration of justice, has arisen to the citizens of said County, by the subsequent and different location of a seat of justice for the county, by the same commissioners, therefore

Preamble.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the County Court of Jackson County, be, and is hereby authorized, at its first session after the passage of this act, to order an election in said county for commissioners to select a seat of justice for said county, and that the place chosen by the said commissioners shall be the permanent seat of justice of said county; Provided, That twenty days notice of said election shall be given, by posting at three of the most public places in the county.

County court to order election of commissioners, twenty days notice.

Sec. 2. *And be it further enacted,* That any former selections of a County seat, and all other acts of the said County Court or Commissioners by them appointed, which are inconsistent with the provisions of this act, be and the same are hereby repealed.

Former selections of county not annulled.

Passed December 9th 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 9th 1825.]

WM. P. DUVAL.

Governor of the Territory of Florida.

AN ACT

To incorporate the City of Tallahassee.

Boundaries-
name and style
---duration of---

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all the free white male inhabitants over the age of twenty-one years, comprehended within the south east quarter of section thirty-six, township one, range one, north of the basis parallel, and west of the Meridian, in the county of Leon and District of Middle Florida ; and two hundred feet outside of the said boundary line, and their successors, be and remain, for the term of five years from the first day of January, one thousand eight hundred and twenty-six, a body corporate by the name and style of the City of Tallahassee ; and by their corporate name may sue and be sued, implead and be impleaded, and do all other acts as natural persons, and may purchase and hold real, personal and mixed property, or dispose of the same for the benefit of the said city.

Government of
city in whom

Sec. 2. *Be it further enacted,* That the government of the said city shall be vested in a City Council composed of an intendant and five councilmen, each of whom shall have the qualification of having resided six months within the limits aforesaid in order to fill either of the said offices.

Powers of Intendant.

Sec. 3. *Be it further enacted,* That the Intendant shall have and exercise all the duties and may receive the fees of a justice of the peace.

Powers of Council.

Sec. 4. *Be it further enacted,* That the said City Council shall have full power and authority to prevent and remove nuisances ; to license and regulate auctioneers and auctions, retailers of goods and liquors, and taverns ; to restrain or prohibit all sorts of gaming ; to license and regulate theatrical and other public amusements ; to establish and regulate markets ; to direct the safe keeping of the standard of weights and measures appointed by Congress ; to provide and regulate burial grounds out of the said limits for the

use of the said City ; to sink wells and erect and repair pumps in the streets and public squares ; to erect and repair market houses and public scales on any of the public squares, except the capitol square ; to establish and regulate Patrols ; to regulate the storing of gun powder, to tax and license hawkers and pedlars ; to restrain and prohibit tippling houses and lotteries ; to provide for the establishment of public schools and superintendence of the same ; and to restrain and punish vagabonds and disorderly persons, and the disorderly conduct of negroes and persons of colour.

Sec. 5. *Be it further enacted*, That the said City Council shall have power to levy a tax for the purposes recited in the preceding section of this act, in such manner and under such circumstances as the said council shall conceive least burthensome to the citizens, and to provide for the collection thereof: Provided, That no tax shall be imposed on real property at any higher rate than one quarter of one per cent. on the assessed value of the same, and shall have power to make and pass all such ordinances, and to impose such fines and penalties for infringement thereof or non-compliance therewith, as shall to the said City Council seem necessary to give effect and operation to the powers and regulations, to the duties herein and hereby given and imposed, to and upon, the said corporation or City Council ; any law of this Territory to the contrary notwithstanding: And provided. That the said ordinances and rules shall be signed by the Intendant and attested by the Clerk, and that no ordinance shall be passed granting any salary, pay, or allowance, to the said Intendant or Councilmen or to either of them.

Tax---proviso---
further proviso,
no salary.

Sec. 6. *Be it further enacted*, That the said City Council shall have power to compel the attendance of its members, and to judge of the election returns and qualifications of its own members, excepting the Intendant, and the yeas and nays on any question shall, at the request of any two members, be placed on record.

Council judge of
election returns
and qualifica-
tions--yeas and
nays.

Council elect
treasurer, clerk
&c ---salaries of
---expel a mem-
ber.

Sec. 7. *Be it further enacted*, That the said city council shall have power to elect a treasurer, clerk and such other officers as to the said city council may seem necessary to give effect to the powers and regulations, to the duties by this act given to, or imposed upon the said city council, and to determine the salaries of the said officers, and the same to dismiss at pleasure, and a majority of three fifths of said councilmen may expel a member of the said Council for disorderly behaviour or mal conduct in office.

Council to keep
records of pro-
ceedings etc.---
promulgate
same---

Sec. 8. *Be it further enacted*, That it shall be the duty of the said city council to cause to be kept regular records of their proceedings and of their ordinances, rules and regulations, and they shall promulgate their ordinances without unnecessary delay, by posting the same at the common market place, on the capitol, or at the door of the council room, or in the newspapers if any there be printed in said city, so that the same be exposed to the public view at least four weeks.

Meetings to be
public---intendant
president
of board, absence
&c. of ---
council appoint
one of their
number.

Sec. 9. *Be it further enacted*, That it shall be the duty of the said City Council, to hold their meetings in public, and at such times as to the said Council may seem fit ; and the Intendant shall be president of the board, and in the absence or disability of the Intendant, a majority of the Council may, on any occasion, appoint from among their number an Intendant, who shall have power, *pro tempore*, to do the duties of Intendant.

Quorum.

Sec. 10. *Be it further enacted*, That four of the number of said Intendant and councilmen may form a quorum for the transaction of business.

Treasurer to
give statement
of receipts &c.
four times a
year.

Sec. 11. *Be it further enacted*, That it shall be the duty of the said City Council to exact from the Treasurer, at least four times in each calendar year, a statement of the receipts and of the expenditures of monies, and of the sums of money due to and from the said corporation, and to certify the same to be correct, if on examination such statement is found to admit of such certificate.

Sec. 12 *Be it further enacted,* That it shall be the duty of the said Intendant, to see that the ordinances of the said Council are duly executed ; and to call a meeting of the councilmen when in his opinion the public good may require it ; and he shall lay before the council from time to time, in writing, such propositions as he may deem advisable for the welfare of the said corporation ; and the said city council shall have power to adjourn from time to time.

Duty of intendant.

Sec. 13. *Be it further enacted,* That the said Intendant shall, within five days after his election, take oath or solemn affirmation, before any Judge or Justice of the peace of this Territory, that he will, to the utmost of his power, support, advance and defend, the interest, peace, and good order, of the City of Tallahassee, and faithfully and diligently discharge the duties of Intendant of the said city, during his continuance in office, and that he will support the constitution of the United States. And he shall within the afore-said time of five days after the election, convene the councilmen elect, and administer to each of them an oath or affirmation, similar to that taken by himself.

Oath of intendant--oath of councilmen.

Sec. 14. *Be it further enacted,* That the Treasurer shall receive all monies due and owing to the said corporation, and he shall keep an accurate account of the same, and all money paid out for, or on account of said corporation, shall be paid by the Treasurer, on an order of the Council attested by the clerk, and countersigned by the Intendant.

Duty of treasurer.

Sec. 15. *Be it further enacted,* That the first election for Intendant and councilmen, shall take place on the first Monday in January next, and each succeeding election shall be held on the first Monday of January every year ; and the said elections shall be held under the inspection and superintendence of three inspectors, who shall be judicious and discreet persons, and the votes shall be given by ballot ; but no judge of the election shall be qualified to run for the office of Intendant or city councilmen.

First election--time of--three inspectors--proviso.

or shall be eligible to said offices or either of them, at the time he is so judge of the election.

Duty of inspectors--polls--inspectors to record persons elected, and give notice.

Sec. 16. *Be it further enacted,* That it shall be the duty of the said Inspectors, or any two of them, to receive the votes, and to cause the name of every voter to be taken down and inscribed in a book to be kept for that purpose, and to cause the poll to be held at such place as they or any two of them may deem proper ; and to be opened and continue open from nine o'clock in the morning until five in the evening, when the bailots shall be told, and the name of the person having the greatest number of votes for intendant shall be declared, and the names of the persons having the greatest number of votes for councilmen, shall be declared ; and the names of the said intendant and councilmen elect shall be recorded, and notice of their election given to each of them.

Inspectors to give notice two weeks of election--how--

Sec. 17. *Be it further enacted,* That it shall be the duty of the said city council, at least two weeks previously to the day appointed for election, to appoint the inspectors of election by this act required, and to notify them of such appointment, and the said inspectors shall give public notice, within three days thereafter, by posting up at the market, and three different places, of the time and place of such election.

Intendant not able to perform requiring duties --new election.

Sec. 18. *Be it further enacted,* That if by reason of the refusal, absence, or other unavoidable casualty, the Intendant elect shall be prevented from performing the organizing duties by this act required, it shall in such case be the duty of the Intendant in office to cause a new election to be held by the same inspectors, who shall forthwith give at least one weeks notice of the same, and hold another election for Intendant, conformably to this regulation.

Names of inspectors--to hold a re-election in certain cases.

Sec. 19. *Be it further enacted,* That William Cameron, Allen W. Coleman, and William Wyatt be, and they are hereby appointed, inspectors, to superintend the election for Intendant and councilmen for the said city, on the first Monday in January next ; and they or any two of them may do the duties of superintending required, and in the event of the occurrence

of any of the casualties contemplated by this act, to prevent the organization of the said city council, they or any two of them are hereby authorized to hold a re-election for Intendant.

Sec. 20. *And be it further enacted*, That every white male inhabitant of the age of twenty-one years or upwards, who shall have resided three months within the limits above described, and every white male person who shall have resided six months within the county of Leon, and one month in the city of Tallahassee, shall be entitled to vote for Intendant and councilmen for the said corporation.

Voters.

Passed December 5th 1825.

A. BELLAMY,

President of the Legislative Council,

SAML. FRY, Clerk.

[Approved December 9th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

Amending the act regulating the mode of suing out writs of error and prosecuting appeals in the Court of Appeals of the Territory of Florida, approved December 13th, 1824.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That no final judgment, sentence or decree, rendered by any of the Superior courts of this Territory, shall be appealed from, to the court of appeals, unless the party wishing such appeal shall, by himself, herself or themselves, or by his, her or their attorney, pray an appeal in open court, within six days after the rendition of such final judgment, sentence or decree, so sought to be appealed from.

No appeal after
six days--open
court.

Sec. 2. *Be it further enacted*, That at the time such appeal is prayed, it shall be the duty of the party praying such appeal to offer for the approval of the court good and sufficient sureties to enter with such appellant, upon a recognizance, conditioned as is prescribed by the second section of the act to which this is an amendment, and the said court shall in their discre-

Appellant offer
good security---

tion give to such appellant any time not exceeding sixty days, in which, with his, her or their sureties as aforesaid, to execute the said recognizance in the clerks office of the court, from which such appeal is prayed, whose duty it shall be to take all recognizances under the foregoing provisions of this act.

Time extended
to infants &c.

Sec. 3. *Be it further enacted*, That nothing in the tenth section of the act to which this is an amendment, shall be construed to extend to cases where any infant, feme covert, or person non compos mentis shall be a party but in all cases where any infant, feme covert or person, non compos mentis shall be a party to any judgment in a civil action, two years shall be allowed to such infant, feme covert or person non compos mentis, after their respective disabilities are removed, in which to sue out his, her or their writ of error on any judgment as aforesaid.

Part of former
act repealed
proviso.

Sec. 4. *Be it further enacted*, That so much of the act to which this is an amendment, as is inconsistent with the provisions of this act and no further, be and the same is hereby repealed; Provided however, That any appeal taken before the first day of March next, in pursuance of the provisions of the before recited act, shall be tried in the same manner, and the form and manner of taking and preparing any such appeal, shall be as valid and effectual in law as if this act had never passed.

Court of appeals

Sec. 5. *And be it further enacted*, That if from any cause the court of appeals shall not be held at any time prescribed by law, all causes regularly depending in said court, shall stand continued upon the docket of said court of appeals until said court shall hold a session.

Passed December 9th 1825.

A. BELLAMY,

President of the Legislative Council
SAML. FRY, Clerk.

[Approved December 9th 1825.]

WM. P. DUVAL,
Governor of the Territory of Florida

AN ACT

To alter the time of holding the Superior Court in Gadsden County.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That so much of the second section of an act, entitled "An Act to provide for holding terms of the Superior Court in the counties of Alachua and Gadsden, as requires a court to be held on the third monday in April in Gadsden county, be, repealed, and the said court shall be held on the third monday in March in each and every year.

Gadsden county
--superior court
time of holding.

Passed Deember 10th. 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 10th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida

AN ACT

To estalish a ferry over the river Okelockony.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Drury Vickers, be and he is hereby vested with the right and power of establishing a ferry and charged with the duty of keeping the same in repair across the Okelockony, at the place where the road leading from Tallahassee to the Georgia line crosses said river, and the said Drury Vickers shall continue in the enjoyment of the right of said ferry, for and during the term of ten years; Provided the said Vickers shall so long keep the said ferry in good repair.

Drury Vickers---
ten years.

Sec. 2. *Be it further enacted,* That it shall be unlawful for any other person or persons to establish or keep

Unlawful for
any other.

a ferry within two miles of said ferry on the river Oke-lockony except it be for his, her or their own use and not for the purpose of gathering toll.

Good and suffi-
cient flat or oth-
er craft.

Sec. 3. *And be it further enacted*, That it shall be the duty of the said Drury Vickers, his heirs and assigns, to keep at all times a good and sufficient flat or other craft of sufficient size, to cross a waggon and team, and that he shall receive such toll as may be fixed by the county court of Leon County, and be subject to the order of said court, or any future Legislative Council of this Territory.

Passed December 9th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[*Approved December 10th 1825.*]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To authorise the collection of certain money due to the Territory of Florida

Preamble.

Whereas it is represented to this present Legislative Council, that considerable sums of money are due and owing to this Territory, for and on account of sales of wrecked property sold at Key West in this Territory, and whereas, some doubts are entertained as to the proper means of demanding and recovering the same, for remedy thereof,

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall be the duty of the Treasurer of this Territory to repair to Key West or to any or all other places necessary within this Territory, for the collection of the said money and if the said Treasurer shall neglect or refuse so to do, it shall and may be lawful for the Governor of this Territory, to appoint and commission some suitable

person as collector, who shall give bond with sufficient security in the penalty of ten thousand dollars to be approved by the Secretary of this Territory conditioned for the faithful performance of his duties; whose duty it shall be, to repair to the aforesaid port of Key West, or to any or all other places necessary within this Territory, which said person so appointed and commissioned collector, by virtue of said appointment shall have power in the name of the Governor of Florida, for and on behalf of the Territory of Florida, to demand, receive and receipt for, from any person so having any money belonging to this Territory, all and every part and parcel thereof, and shall moreover be invested with power to inspect all accounts, papers, books or records which shall, or may be exhibited to him, by which can be ascertained the sum or sums so due and owing as aforesaid, and shall moreover have power finally to settle with all and every person or persons against whom this Territory shall have any claim or demand upon the account or in the manner herein before expressed in any way which shall appear to said collector reasonable and just.

Sec. 2. *Be it further enacted*, That if any person against whom this Territory hath any claim as is herein before expressed, shall fail to exhibit to such collector, upon application, a fair account of all sums of money collected by any such person, or shall refuse or neglect to pay over to said collector all such sums of money upon application, then it shall be lawful for such collector to commence suit in any court having jurisdiction thereof in this Territory, against any such person; and the style of any such suit or suits shall be "the Governor of Florida for the use of the Territory plaintiff against A. B. defendant."

Sec. 3. *Be it further enacted*, That said collector shall of right, in any such cause, require bail to any amount which he shall believe probably due, without any oath or affidavit to justify his order for bail.

Sec. 4. *And be it further enacted*, That all acts or parts of acts repugnant to the provisions of this act, be,

Treasurer of territory to repair to Key West--secretary refusing--Governor to appoint--duty of collector--power to inspect accounts to set No.

Persons failing to exhibit--collector to commence suit.

Collector shall require bail.

and the same are hereby repealed. This act shall be in force from and after its passage.

Passed December 10th 1825.

A. BELLAMY,
President of the Legislative Council.
SAML. FRY, Clerk.

[Approved December 10th 1825.]

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

To alter and amend an act establishing the mode of summoning grand and Petit Jurors.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the clerks of the county courts of the several counties of this Territory, shall make out a list of all the free white male taxable inhabitants of their respective counties, which said list shall be taken from the latest tax returns of said counties, respectively, at least five weeks before each and every return of said county.

Sec. 2. *Be it further enacted,* That all the writs of venire facias authorised by the act to which this is an amendment shall hereafter contain the names of the Jurors to be summoned, which said names shall be taken by lot from the list mentioned in the foregoing sections of this act, according to the most convenient mode by the clerk of said county, assisted by the sheriff of the county, who shall for that purpose attend at the clerks office at least one month before the first day of said court.

Sec. 3. *Be it further enacted,* That the clerks of the superior courts of the several districts and counties of this Territory, shall also make out their writs of venire facias for grand as well as petit jurors in like manner, as by this act provided in relation to the sum-

Clerk to make out list of free white male inhabitants--time when.

Venire facias contain names of Jurors to be summoned--sheriff attend at clerks office.

Clerk of superior courts.

moning of Jurors in the county courts; provided, that this act shall not be construed to alter or repeal the act entitled "an act relative to Jurors in certain counties," passed 30th December 1824.

Sec. 4. *Be it further enacted*, That if from any cause a grand or petit Jury shall not be summoned or shall not attend at the term of any court in this Territory, it shall be lawful for such court to order its executive officer to summon or fill up as the case may require, a grand or petit jury, out of the persons qualified by law as jurors in such court, and the said court, shall and may proceed as if such grand or petit jury had been summoned in any other manner prescribed by law.

Jurors not attending, court to order persons qualified.

Sec. 5. *Be it further enacted*, That this act shall be in force from and after the first day of February next, and that so much of the act to which this is an amendment as is repugnant to this act, and no further be and the same is hereby repealed.

commencement of this act.

Passed December 10th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[*Approved December 10th 1825.*]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To amend an act to define crimes and misdemeanors, and to prescribe punishments for the same.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall be lawful for each and every person, charged with any high crime and misdemeanor, and who shall be put upon trial by jury, to challenge fifteen jurors, peremptorily and without assigning any cause, and as many for good cause as can be shewn.

Challenge.

Instruction to
Jury-- error in
certain cases.

Sec. 2. *Be it further enacted*, That the judges in this Territory shall give no instruction to the jury in any case either civil or criminal, except in points of law, and it shall be taken and considered error in any judge, who shall violate this section of this act.

Jury to fix pun-
ishments in cer-
tain cases.

Sec. 3. *Be it further enacted*, That whenever any person or persons shall be convicted of any of the crimes and misdemeanors set forth in the above recited act, and discretionary punishments have been affixed to the same, it shall be the duty of the jury that condemns, to exercise such discretionary powers, and affix the punishments agreeably to the provisions of said act.

Part of former
act repealed,
commencement
of this act.

Sec. 4. *Be it further enacted*, That so much of said act as gives and vests in the court, any discretionary powers, to inflict fines or other punishments, be and the same is hereby repealed; this act to commence and be in force from and after the first day of March next.

Free person or
slave found
hunting--pun-
ishment.

Sec. 5. *Be it further enacted*, That if any free person of color, or slave shall be found hunting by firelight out side of his inclosure or the inclosure of his owner or master he or they shall be whipped, not exceeding thirty stripes, at the discretion of any court, having competent jurisdiction.

Complaint or in-
formation of
owner by slave
or person of co-
lor--Justice to
give three days
notice to other
Justices--pun-
ishment of--pro-
viso.

Sec. 6. *Be it further enacted*, That whenever any complaint shall be made to, or information on oath before any justice of the peace, of any offence being committed by any free person of colour, or slave, or slaves within the county where such justice is empowered to act, such justice shall, by warrant from under his hand cause such slave or slaves to be brought before him, and give notice thereof in writing to any two or more of the nearest justices of the peace of said county to associate with him on a particular day in said notice specified not exceeding three days from the date of said notice, for the trial of such free person of colour or slave or slaves, and the justices so assembled, shall forthwith proceed to the examination of any witness or witnesses and other evidence, if any there be, and in

case the offender shall be convicted of any crime not capital, the said justices or a majority of them shall give judgment for inflicting any corporal punishment, not exceeding thirty stripes, and also to give judgment against the owner or owners of such slave or slaves, for all costs and damages which shall appear to be done by said slave or slaves; *Provided nevertheless*, that in all cases before the trial of such slave or slaves, notice shall be given to the owner or owners of such slave or slaves of the crime accused of, and the day of the trial.

Sec. 7. *Be it further enacted*, That whenever the offence shall appear to be of a capital nature, the said justice shall commit such free person of colour or slave or slaves to the Judge of the superior court of the district, whose duty it shall be to cause a jury of twelve free white householders of said county, to appear at the court house of said county, within ten days or as soon thereafter as may be from the date of said commitment, and to empanel a jury, and hear and determine agreeably to the evidence introduced by the parties.

Offences of a capital nature—to be fixed by Judge of superior court summarily.

Sec. 8. *And be it further enacted*, That whenever such free person of colour, or slave, or slaves shall be found guilty by said jury, the judge of the superior court shall proceed to pass sentence and cause execution to be done accordingly; *Provided always*, that a bare attempt to commit a rape shall be punished by death, or such punishment as the court may direct; all other capital crimes shall be punished agreeably to the penal laws of this Territory, any law to the contrary notwithstanding.

Judge to pass sentence—execution provided—rape.

Passed December 10th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

• [Approved December 10th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

L

AN ACT

In addition to "An Act to incorporate the City of Pensacola, and improve the public roads in the neighborhood thereof.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the fifteenth section of the act to which this is an amendment, be and the same is hereby repealed.

Passed December-10th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 10th 1825.]

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

Making an appropriation for the repairing of the buildings at Fort St. Marks, and for other purposes.

Governor make
repairs out of
last years rent
of Fort.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the Governor make all such repairs, as to him shall seem necessary, on the buildings at Fort St. Marks, out of the fund which may arise from the rent thereof, and after such repairs the rest and residue of the amount which has accrued from the last year's rent, shall be appropriated to the repairs of the road to the extent of three miles, commencing at said Fort St. Marks leading to the city of Tallahassee.

Sec. 2. And be it further enacted, That the Governor is further authorised to appoint a commissioner to superintend and carry into effect the provisions of

the foregoing section, said commissioner to have such compensation out of the aforesaid funds, as the Governor may deem equitable and just.

Passed December 9th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 9th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To alter and change the holding of County Courts in the County of Walton and for other purposes.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, the county courts of Walton shall be held at the house of William Baley, on the west side of the choctawhatchie river on the head of alaqu creek, until otherwise provided for by law.

Walton county.

Sec. 2. Be it further enacted, That there shall be held, a county court in the county of Washington, on the fourth monday of April and November, and until the county scite shall have been permanently established, said court shall hold its sessions at the house of William M. Loftin, until otherwise provided for.

Washington county.

Sec. 3. And be it further enacted, That so much of the act to designate the times and places for holding county courts in the Territory of Florida, approved 29 December 1824, as relates to the holding county courts in the county of Walton be, and the same is hereby repealed.

Repeal of part of former act.

Passed December 10th 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[Approved December 10th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To alter and amend "An Act to regulate the Counties and establish County Courts in the Territory of Florida.

Associate Judge
to be abolished
--presiding
judge.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, the office of associate Judge to the County Court be and the same is hereby abolished; and the presiding Judge of the county courts respectively, is hereby authorised and required to perform all the duties prescribed by the act, to which this is an amendment, which by said act are required to be performed by the said Judge in conjunction with the said associate or assistant Judges.

Justices of the
peace--Proviso.

Sec. 2. Be it further enacted, That the Justices of the peace in each and every of the counties of this Territory, shall be associated with the Judge of their respective county courts, for the performance of all business required by the Eighth and ninth sections of the act to which this is an amendment, Provided, if the said Judge shall not attend at any regular term of his court, as in said act is required, that the said Justices shall proceed without him, if a majority of all in the county shall be present, at any term, or if the said Judge shall be present at any term in said act required and authorised, he shall be authorised to progress with county business in the aforesaid sections designated. any two or more of said Justices being present and associated with him for that purpose.

Fees of Judge.

Sec. 3. Be it further enacted, That upon all cases of appeal, or of probate of any will, or granting letters of administration upon intestate Estates, or upon all original cases brought in the county court, the party applying to the court shall pay to the Judge of the county court, four dollars for his fees in such case, at or before any decision thereon shall be rendered; which said sum in case of recovery and execution shall be taxed as part of the costs, or in case of probate of any will, or granting letters of administration shall be allowed to any executor or administrator paying the same in his settlement of said trust.

Sec. 4. *Be it further enacted*, That said Judge of the county court, be and he is hereby authorised, on petition being made, to order notices to be given for appearances at the next term of the court, in all cases where notices may be necessary, and also to appoint during vacation, guardians to orphans, which appointment shall be subject to the approval or disapproval of the court at the next term.

Notice--guardians.

Sec. 5. *Be it further enacted*, That it shall be the duty of the Judge of said court to hold two additional terms in the year, solely for probate business.

Sec. 6. *Be it further enacted*, That the Office of Judge of the county court shall not be deemed a disqualification to practice Law in the Superior Courts, except in cases of appeal or error from the court in which said Judge shall preside, to the superior court; and appeals, and writs of error, shall be taken from the county to the superior court, in the same manner, and under the same restrictions, as are imposed in the cases respectively, when appeals or writs of error are taken from the superior court to the court of appeals.

Office of Judge no disqualification to practice in superior court; exception.

Sec. 7. *And be it further enacted*, That so much of the act to which this is an amendment as is inconsistent with the provisions herein contained, and no further, be and the same is hereby repealed.

Repeal of former act.

Passed December 9th 1825.

A. BELLAMY.

President of the Legislative Council.

SAML. FRY, Clerk,

[*Approved December 10th 1825.*]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

Supplementary to an act entitled "an act to alter and amend an act to regulate the Counties and establish County Courts in the Territory of Florida."

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That at the two additional terms of the County Courts for each county, to do pro-

Additional
terms---probate
business---county
business to-
gether with two
Justices.

bate business, that two or more Justices being present and associated with said Judge, shall proceed to road and county business, any law to the contrary notwithstanding.

Additional
terms---time of--
in different
counties.

Sec. 2. *Be it further enacted*, That the said additional terms of said county courts in each and every year, shall be held at the times herein after stated, that is to say. In the county of St. John's on the second Monday in March and first monday in September; In Duval county on the second mondays in June and January; in Alachua county on the third mondays in June and January; in Nassau county on the fourth mondays in June and January; in Mosquito county on the first mondays in July and January; in Monroe county on the first mondays in August and February; in Leon County on the first mondays in June and January in Gadsden County on the second mondays in June and January; in Escambia county on the third monday in May and first monday in August; in Walton county on the second mondays in June and November; in the county of Jackson on the third mondays in July and January; and in the County of Washington on the first mondays of July and November.

Advertisement
for letters &c.

Sec. 3. *And be it further enacted*, That so much of any law as requires advertisement in any newspaper to authorise said courts to take Jurisdiction of any application for letters of administration upon any intestate estate, or letters of probate on any will, be, and the same is hereby repealed, and such notice may be given by posting at the Courthouse of the County.

Passed December 10th, 1825.

A. BELLAMY,

President of the Legislative Council.

AML. FRY, Clerk.

[Approved December 10th 1825.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To provide for the compensation of the officers of the present
Legislative Council.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the following sums be allowed to the Clerks and other officers of this Council as a Compensation for their services, viz : -

To Samuel Fry, Chief Clerk two hundred dollars.

To George E. Tingle, enrolling and engrossing Clerk one hundred and sixty six dollars thirty seven cents.

To George T. Ward, enrolling and engrossing clerk one hundred and fifty-nine dollars twelve cents.

To Paul Mc Cormick, enrolling and engrossing clerk one hundred and eighty dollars.

To John H. Lawrence, enrolling and engrossing clerk one hundred and fifty-nine dollars seventy five cents.

To Joseph R. Lane, Sergeant at arms, ninety-five dollars.

To Albert Philips, Door Keeper seventy-five dollars

Sec. 2. *And be it further enacted*, That the Governor of this Territory be, and he is hereby authorised to cause to be audited the accounts for stationary and other contingent expences incurred for the use of the Legislative Council.

Passed Deember 10th. 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

[*Approved December 10th 1825.*]

WM. P. DUVAL,

Governor of the Territory of Florida

RESOLVED,

By the Legislative Council of the Territory of Florida
That the Territorial attorney of the middle District of said Territory, do in the name and on behalf of the Territory enter a rule in the Superior Court for the Middle District of Florida at Tallahassee, against the Honorable George Walton, Secretary of this Territory, to shew cause why a peremptory mandamus shall not be awarded against him to compel him to receive in his office, and deposit among the rolls thereof, two several acts of this Territory; the one entitled "an act to incorporate a Bank in the City of St. Augustine, and the other an act to incorporate a Bank in the City of Pensacola, which said acts have been passed at this present session of the Legislative Council, according to the powers vested in this Legislative Council by the act of Congress organizing it.

Adopted December 9th, 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY, Clerk.

RESOLVED UNANIMOUSLY,

That the GOVERNOR be requested to communicate to GENERAL LA FAYETTE, the expressions of reverence and affection of the Legislative Council, and of the people of this Territory, as well for his high and venerable character, as for his inestimable services, rendered to the United States, during their revolutionary struggle; to invite him to visit the Territory; and if it should be consonant with his inclination, and not inconsistent with his interests, to establish his permanent residence in the United States, and that Florida may be honored as such residence.

Adopted December 11th, 1825.

A. BELLAMY,

President of the Legislative Council.

SAML. FRY Clerk.

